

Board Chairman John Gangemi called the regular meeting of the Mine Hill Township Planning Board to order at 7:30 pm and led those present in the Pledge of Allegiance.

OPEN PUBLIC MEETINGS NOTICE

Mr. Gangemi announced that adequate notice for this meeting had been given as required by law.

ROLL CALL: Members Present – Mr. Alpaugh; Mr. Frank; Mr. Gallarano; Mr. Gangemi; Mr. Gorman; Mr. Heredia; Mr. Sauchelli
Members Absent – Mr. Morris; Mr. Willis
Alternates Present – Ms. DelRio; Ms. Goldstein
Also Present – Mr. Haggerty, Board Attorney; Mr. Sterbenz, Engineer; Ms. Macchia, Municipal Clerk/Planning Board Administrative Clerk
Public Present – Approximately 7

APPROVAL OF MINUTES

A motion was made by Mr. Alpaugh and seconded by Mr. Frank to approve the minutes of May 6, 2013. The motion was approved by a voice vote.

CORRESPONDENCE

None.

CONSIDERATION AND APPROVAL OF VOUCHERS

- a. Iron Mountain Industrial Park Escrow 711261
 - i. \$31.25 to Paul Sterbenz

- b. J&E Auto Escrow 711285
 - i. \$125.00 to Paul Sterbenz
 - ii. \$588.75 to Paul Sterbenz
 - iii. \$34.00 to Bill Haggerty
 - iv. \$31.25 to Bill Haggerty

- c. Milelli Escrow 711286
 - i. \$500.00 to Paul Sterbenz
 - ii. \$62.50 to Paul Sterbenz
 - iii. \$34.00 to Bill Haggerty

- d. Engle Escrow 711287
 - i. \$62.50 to Paul Sterbenz
 - ii. \$66.00 to Bill Haggerty

- e. Planning Board Budget
 - i. \$62.50 to Paul Sterbenz
 - ii. \$66.00 to Bill Haggerty

A motion was made by Mr. Sauchelli and seconded by Mr. Frank to approve the vouchers as presented contingent upon sufficient funds available in escrow. Seeing no further discussion, the roll was called and the vouchers were approved by the following vote:

Ayes: Mr. Frank; Mr. Gallarano; Mr. Gangemi; Mr. Gorman; Mr. Sauchelli
Nays: none
Absent: Mr. Morris; Mr. Willis
Abstentions: Mr. Alpaugh; Mr. Heredia

RESOLUTIONS & MOTIONS

Resolution 010-13 Amendment of Meeting Schedule

Ms. Macchia explained that the October 16th meeting would need to be rescheduled due to the Special Election scheduled for that day. October 24th is the only other date in the month of October that both Board Professionals are available.

It was concluded that this resolution would be held until the next meeting for further discussion.

COMPLETENESS REVIEWS

Application 001-13 Robin Engle

Mr. & Mrs. Engle did not provide corrected documents or appear at the meeting. It was concluded that Mr. Thompson would send an updated notice of violation to encourage the applicant to submit their revisions and proceed with the process.

PUBLIC HEARING ON APPLICATIONS PREVIOUSLY DEEMED COMPLETE

Application 003-12 Salvatore Milelli (Deemed Complete 12/18/12 – Time Expires 4/17/13, ext. 6/19/13)

Mr. Frank recused himself from this application. It is noted that Alternate #1 Jill Del Rio and Alternate #2 Deborah Goldstein are both present to hear testimony.

John M. Sydlar introduced himself as the attorney for the applicant and explained that the applicant would like to convert three apartments currently zoned for office use to become three one-bedroom residential apartments. The application is for a D-2 variance, the extension of a pre-existing non-conforming use, as there are existing apartments already zoned as residential.

Jason Dunn was sworn in as the planner for the applicant. Mr. Dunn is a licensed professional planner with expert testimony experience. Mr. Dunn described the property:

There are currently four pre-existing non-conforming residential units. Additionally, there exists currently a vacant restaurant space on the first floor, an occupied nail salon space on the first floor, and three vacant office spaces on the second floor. These vacant office spaces were fitted for residential use without the proper permits. Mr. Sydlar acknowledged that this work was done prematurely and improperly, but noted that his client was sited, has paid the applicable fines, and is now seeking legal approval to complete and rent said apartments. It is noted that the septic is under the parking area and was deemed functional in 2003 with no reported problems since that time.

The applicant's professionals contend that the proposed residential use would cause less strain on the septic system than the previous restaurant use. They also contend that there will be less traffic at the site under residential use than under mixed use. In addition, Mr. Sydlar noted that the most important benefit to the Township would be the designation of a COAH unit, an inherently beneficial use.

Mr. Sterbenz remarked that the COAH unit could be designated with a 30 year deed restriction. He added that, should the variance be approved, he and Mr. Haggerty would review all applicable COAH regulations prior to site plan review.

Mr. Dunn testified that the currently zoned office spaces have been unable to be rented, and he believes that occupied residences are better for the Township than vacant business spaces. He also contended that case law

supports “harmonizing” the use of a property. Mr. Heredia responded that he believes “harmonizing” would entail turning the entire property to commercial as it is in the commercial zone.

It was noted that, should the Board vote to approve the use variance, they could still deny the site plan, especially if the applicant was unable to satisfy all of the conditions of the variance.

At this time it was concluded that this hearing should be continued without need for additional notice due to meeting time constraints and the need to hear another applicant. Mr. Haggerty asked for the applicant’s consent, which was granted.

A motion was made by Mr. Alpaugh and seconded by Mr. Gangemi to continue the public hearing at the next meeting. The roll was called, and the motion was approved by the following vote:

Ayes: Mr. Alpaugh; Ms. Del Rio; Mr. Gallarano; Mr. Gangemi; Mr. Gorman; Mr. Heredia;
Mr. Sauchelli
Nays: none
Absent: none
Abstentions: none

Application 002-12 J&E Auto, LLC (Deemed Complete 4/01/13 – Time Expires 7/29/13)

Sam DeAngelis introduced himself as the attorney for the applicant. He described the application as a D variance, bifurcated into use and site plan. A partial site plan has been submitted with the use variance for informational purposes.

Mr. DeAngelis submitted municipal certificate for the business in question and the State business license.

Mr. Fox was sworn in as the planner for the applicant. Mr. Fox is an architect and professional planner with experience testifying before this board. Mr. Fox described the site as it currently exists:

The property consists of the business building and paved area with adjoining gravel lot. The property is fenced, and is located in the commercial zone. The business is currently licensed to sell cars via the internet with the storage of 11 cars on this property, three of which are permitted to be on display along Route 46.

Mr. Martinelli was sworn in as the sole member of the LLC which is the applicant in this case. Mr. Martinelli testified that he originally received his license from the Township to operate his business on Iron Mountain, and that Mr. Thompson approved the relocation of the business to 224 Route 46. Approval for the relocation was also granted by the State of NJ. He added that at the time of the approval of the relocation of the business the conditions relating to number and location of vehicles did not exist. Mr. Thompson asked him at a later date to limit vehicle storage to 3 display cars along Route 46 and 11 total cars on the lot and limit sales to the internet; this arrangement was agreed to and signed. Mr. Martinelli is applying for a variance to put more cars on the lot. Internet sales are working out, but buyers still want a place to view the vehicle before purchase. Mr. Martinelli testified that the present arrangement was agreed to by the Township in October of 2010, but that there are not enough vehicles permitted on the lot to sustain his business.

Mr. Fox testified that Mr. Martinelli hired him to design and present an improved site where he can both make the site more attractive and accommodate more cars. The intention of his site plan is to improve the site over what was there prior to his rental of the property. The site plan includes adequate circulation, customer parking and storage of cars for sale. The site plan includes 4 cars along Route 46 with landscaping to improve the appearance. The site also includes an area to detail cars prior to pick up.

Mr. Fox added that the governing body changed the land use ordinance in 2005 to make auto sales a non-permitted use. At that time, they sited reasons of traffic congestion and aesthetics for prohibiting future car

lots. Mr. Fox believes their plan overcomes these reasons. He discussed the navigation plan, landscaping and lighting around the lot.

It was clarified that the property is rented, and the owner of the property is agreeable to the application. It was added that there is a residential tenant in the second story of the building which is under the control of the landlord, not the applicant. Mr. Fox testified to some of the general details of the site plan in effort to make the board comfortable that the site could be developed reasonably with variances.

Discussion followed regarding the number of vehicles needed on an approved site plan to sustain a viable business. Mr. Fox clarified that the applicant is not seeking relief for financial reasons as prohibited by the land use law. Mr. Fox reiterated that the intention of the application is to provide for used car sales and detailing, with no auto body repair, while improving the appearance of the lot over its historical appearance and the appearance of other car lots in town. The general welfare is improved by creating drainage where none has previously existed.

Upon question from Mr. Sterbenz, Mr. Martinelli stated that he moved his business from Iron Mountain Road, where it was a permitted use, to Route 46 because the business never got off the ground on Iron Mountain. He gave up his plan to have auto sales and auto body repair on Iron Mountain to move to Route 46 for increased visibility.

Discussion followed regarding the testimony that the property is “uniquely suited” as a car lot. It was noted that car lots tend to help rather than hinder each other when grouped together because potential buyers will visit each lot before making a purchase decision.

At the conclusion of testimony, the floor was opened to the public.

Chris Wollny, resident of 226 Route 46, next door neighbor to the subject property, was sworn in. Mr. Wollny testified that he has lived at that location for 20 years. Previous uses of the property, including TV repair shop and exterminator’s office, did not impact his family or his property. He is heavily impacted by the current scenario. He testified that noise from trucks, mechanic work, air guns, etc., disturb his peace 7 days a week, sometimes as early as 8:30 AM on a Sunday or as late as 11 PM on other days of the week. Customers have also come onto his property to ask questions about the vehicles assuming he is associated with the business. Discussion followed regarding buffers between the properties that could improve Mr. Wollny’s situation.

Guido Tardive, owner/operator of another car lot across Route 46, was sworn in. He testified that his business closes at reasonable hours and that he believes the residential properties in the commercial zone generate more noise than the commercial properties.

Seeing no additional members of the public wishing to be heard, the floor was closed to the public.

Mr. Heredia noted that he believes variances need to prove exclusive benefit to the town, and that this applicant has talked about improving the site but has not testified as to why a 7th used car lot would be a benefit to the town.

Mr. Haggerty stated that the ordinance is clear and it is up to the board to decide whether the applicant has met the burden of proving that he can overcome the reasons in the ordinance and made a case that justifies relief.

A motion was made by Mr. Sauchelli and seconded by Mr. Alpaugh to approve the use variance subject to site plan approval. The roll was called and the motion was carried by the following vote:

MINUTES OF THE MINE HILL PLANNING BOARD
REGULAR MEETING – June 19, 2013

5-2013-06-19

Ayes: Mr. Frank; Mr. Gallarano; Mr. Gorman; Mr. Gangemi; Mr. Alpaugh
Nays: Mr. Heredia; Mr. Sauchelli
Absent: none
Abstentions: none

NEW & OLD BUSINESS

Discussion of Land Use Ordinance

Postponed until the July meeting.

OPEN TO THE PUBLIC

None at this time.

ADJOURNMENT

There being no further business, a motion was made by Mr. Frank and seconded by Mr. Sauchelli to adjourn the meeting at 11:20 PM. The motion was approved by a voice vote.

Respectfully Submitted,

Amanda G. Macchia, RMC
Mine Hill Municipal Clerk
Board Administrative Clerk

Approved on this _____ day of _____, 20____

Planning Board Chairman