

**CITY OF EGG HARBOR
MUNICIPAL LAND USE BOARD**

June 20, 2017

7:00 P.M.

A regular meeting of the Egg Harbor City Municipal Land Use Board was held on June 20, 2017. Those in attendance were Mayor Jiampetti, Chairman Jack Peterson, Vice Chairman Todd Warker, Egg Harbor City Fire Department Representative John Garth, Regular Members; Richard Colby, Dennis McKenna, Michael McKenna, Gladys Torres, Alternate #1 Keith Mullineaux, Solicitor Duncan Prime, City Planner Tim Michel, City Engineer Ryan McGowan and Secretary Donna Heffley (Not Present were City Council President Edward Dennis, the Mayors Representative Marie Johns and Alternate #2 Donald Milne).

Chairman Peterson called the meeting to order and made the following announcement.

This meeting was advertised pursuant to the NJ Open Public Meetings Act N.J.S.A. 1:4-6 Seq. Notices were sent to official publications for the Egg Harbor City Municipal Land Use Board; the Press of Atlantic City, the Egg Harbor News, the Atlantic Current and the Hammonton Gazette. A copy of the notice was posted on the bulletin board of the Egg Harbor City Municipal Building.

The Chairman directed the Secretary to enter this public announcement into the minutes.

Roll Call: Mayor Jiampetti present, Mr. Dennis absent, Mr. Garth present, Mr. Peterson present, Mr. Warker present, Mr. Colby present, Dennis McKenna present, Mrs. Torres present, Mr. Michael McKenna present, Mrs. Johns absent, Mr. Milne absent, Mr. Mullineaux present, Mr. Prime present, Mr. Michel present, Mr. McGowan present and Secretary Donna Heffley present.

Approval of Minutes: April 18, 2017

Upon motion made by Mr. Warker, seconded by Mr. Dennis McKenna and carried the April 18, 2017 Land Use Board minutes were approved.

Resolutions: Resolution #14 of 2008 (Three Year Extension of Site Plan)

Rastelli Seafood, LLC
1301 Bremen Avenue
Egg Harbor City, NJ 08215
Block 1003, Lots 14 & 15

Upon motion made by Mr. Warker, seconded by Mr. Michael McKenna

Roll Call: Mayor Jiampetti yes, Chairman Peterson yes, Mr. Warker yes, Mr. Garth yes, Mr. Colby yes, Mr. Dennis McKenna yes, Mrs. Torres yes, Mr. Michael McKenna yes, Mr. Mullineaux yes.

New Business: #17-01 LUB

Samir Ibriham (Discount Liquor)
827 White Horse Pike
Egg Harbor City, NJ 08215
Block 433, Lot 12
Minor Site Plan

Chairman Peterson announced this application will not be heard due to an application deficiency.

Chairman Peterson also announced that the order of the applications being heard will be changed. Application #17-03 William Driscoll will be heard second instead of third.

New Business Continued: #17-03 LUB
Ocean Solar – William Driscoll
Owner of Property – Deana Garwood
2550 Philadelphia Avenue (2750 Liverpool Avenue)
Block 232, Lot 6.01

Mr. Driscoll from Ocean Solar was present and was sworn in by Solicitor Duncan Prime. Mr. Driscoll had appeared before the board on April 18, 2017 for an informal review concerning installing a ground mount solar system at 2550 Liverpool Avenue. Mr. Driscoll is appearing requesting a Variance due to the City owning the land surrounding Mrs. Garwood's property. Current Zoning calls for 200-foot setbacks. He is asking for a 10-foot setback. Mr. Driscoll gave a summary of the system he plans to install.

Mr. Michel prepared no written report since this is a residential area and it is energy conservation related. Mr. Michel noted the applicant is proposing a solar ground mount solar system. Mr. Michel discussed the required setbacks. The applicant has a small lot compared to the 20-acre requirement and the accessory requirements as well. Mr. Michel looked at this area in person as well as aerial photographs and there are no neighboring homes within 200 feet. There are some privately owned lots within 200 feet but most parcels are City owned. It is not possible for any one of these privately-owned parcels to be developed with a home based upon today's zoning standards. The lot is isolated from other development and will not affect privately owned homeowners.

Ryan McGowan noted an engineering review is not completed on this type of application because the building department will handle permits and inspections.

Mr. Colby asked about trees shading the proposed site.

Mr. Driscoll responded there will be no trees in the way of the solar array.

Mr. Michel inquired about the mounting of the system, which is not far off the ground and rests on ballast blocks. He wanted to know if there is a possible danger to children or people walking around this area.

Mr. Driscoll stated by the electric code they are supposed to be protected. The homeowner has small dogs and has requested that the area be protected with a fence. Mr. Driscoll stated a fence will be installed around the solar area.

Chairman Peterson opened the floor to the Public for comments on this application.

No more questions or comments from the Board or Public.

On the issue of granting a variance for this ground mount solar system a motion was made by Mr. Garth, seconded by Mayor Jiampetti

Roll Call: Mayor Jiampetti yes, Mr. Peterson yes, Mr. Warker yes, Mr. Garth yes, Mr. Colby yes, Mr. Dennis McKenna yes, Mrs. Torres yes, Mr. Michael McKenna yes, Mr. Mullineaux yes.

Mr. Driscoll asked the board if he can move forward with submitting his permit application to the building department. Duncan Prime noted Mr. Driscoll is free to submit his application and proceed at his own risk due to the chance that someone could appeal the decision of the board. The Application will be memorialized at the July 2017 meeting.

New Business Continued: #17-02 LUB

Spread the Gospel Inc.
235 and 243 St. Louis Avenue
Egg Harbor City, NJ 08215
Block 437, Lot 7.03

Pricilla M. Hawkes, Esquire was present representing the applicant William Hawkes Jr. Ms. Hawkes gave a brief overview of their application. She wanted to make it clear that Spread the Gospel Inc. is not a church. Spread the Gospel Inc. is a nonprofit community crisis center radio station?

Mr. Prime said the applicant has requested a formal interpretation from the board.

Mr. Prime noted the Board will have to sit as a Zoning Board so elected official cannot be present for this application.

Mayor Jiampetti left the court room.

Mr. Prime continued to say that the property the applicant is looking to develop is in the R-6 zone and there are permitted uses listed in Mr. Michel's review letter, one of those is a place of worship. Mr. Prime noted that the applicant has given a letter stating they are not a place of worship. However, they are asking if the board looks at the zoning, and at the use of the Knights of Columbus at the present time which is Grandfathered. If the applicant proposes a substantially similar use to that use it would be grandfathered and they would be a permitted use by this board. However, we have questions as to what their use is. Mr. Michel will explain what use is currently at the property. Then the Board will hear from the Applicant as to what use they are proposing. Then Board members can compare the two and decide if they are substantially similar or not and give an interpretation. If the use is not found to be substantially similar the applicant will have to request a use variance which they have also applied for and we will proceed down that path.

Mr. Michel reviewed his report dated May 31, 2017. Mr. Michel noted many would recognize the relationship between the Knights of Columbus and the local Catholic church that has existed in Egg Harbor City for many years. This particular building was built in 1956, it is 61 years old and it is held in the title of the Columbus 3500 club and the Knights of Columbus Council 3500. He believes the use of this property has been a clubhouse for a place of worship that was organized and operated in Egg Harbor City. The Board would like to hear from the Applicant how they are similar. The Knights of Columbus did not have any profit motive and were serving as a clubhouse for the congregation of the church. They may have rented the hall out from time to time to other parties but the purpose was to serve their local congregation. Mr. Michel explained to the board the elements to consider in order to make their interpretation if the use is similar.

Ms. Hawkes presented the brochure for Spread the Gospel Inc. which provides their mission statement which states: It is the mission of Spread the Gospel Inc. to participate, reflect, inspire and support the diverse community by presenting a program service focused on the community's education, information, cultural and entertainment needs.

Spread the Gospel Inc. goal is to serve the whole and diverse community, by achieving regional attention, exuding program excellence and outstanding performance. Spread the Gospel Inc. is a nonprofit corporation that is organized under the Nonprofit Corporation Law for charitable purposes. This corporation is a nonprofit corporation and is not organized for the private gain of any person. The purposes for which this corporation is formed are exclusively charitable within the meaning of Section 501(c) (3) of the Internal Revenue Code of 1986.

Ms. Hawkes explained Spread the Gospel radio station 88.7 FM and 100.3 FM at times would be holding staff meetings at this location. Mr. Hawkes sits on different boards and would be in the position to offer resources to different organizations for example use of the building at 234 St. Louis Avenue for meetings or events. Ms. Hawkes introduced her Father, William Hawkes who is the President and Cofounder of Spread the Gospel Inc. to explain in more detail their mission.

Mr. Prime marked the mission statement as exhibit #A-1 Mission Statement. Mr. Prime swore in Mr. William Howard Hawkes Jr. Mr. Hawkes confirmed his radio station is a 24-hour Gospel radio station. However, as part of their mission statement they focus a large share to their airways to the community from organizations such as Breast Cancer awareness to homelessness. Also Mr. Hawkes sits on the Board as well with the Scout Reach Program which is the Boy Scouts of America for intercity kids. They service over 500 kids throughout the area. Mr. Hawkes is one of the original board members of the Coalition for Safe Communities including Egg Harbor City. Mr. Hawkes noted they act as a resource center for everything from illiteracy to homelessness and continually tries to make and promote a healthy community. Mr. Hawkes is a deacon at his church and has always been in ministry in some capacity. He stated the use of the building will be very beneficial and would eliminate the problem of having to rent a place to accommodate certain events. The usage would be a combination; they would like to rent it out the building for wedding receptions, Church meetings and to various organizations they serve. It would be a place that would complement the community.

Mr. Hawkes discussed the renting of the hall and the use of alcohol at parties. There is no liquor license being sold with the property. Mr. Hawkes would have to apply for the liquor license. If the applicants wanted to serve liquor as the Knights do they would have to apply for a liquor license and obtain insurance to cover themselves.

Mr. McGowan explained to the board that at the last Council Meeting the City Clerk Meg Steeb explained to the board that the Knights of Columbus liquor license was a site-specific license issued to that organization and was non-transferrable. The Knights of Columbus forfeited their license at the last Council meeting. This license no longer exists and if the applicant would like to obtain a liquor license they would have apply independently.

Board Members and Professionals discussed liquor licenses and the serving and sales of alcohol.

Mr. Hawkes stated it is possible in the future they may pursue a liquor license for the property for the purposes of bring your own bottle. Mr. Hawkes stated they will not be selling any liquor at the premises. The Knights had a license to serve. Mr. Hawkes stated they will not be serving liquor but

would not rule out a license for bring your own botte. This is a separate license strictly for bring your own bottle.

Mr. Colby asked the Mr. Hawkes is they have a staff.

Mr. Hawkes replied they have a staff of about ten people and at times work along with Stockton students where they can actually earn college credits. Mr. Hawkes discussed his involvement with the local colleges. They have an office in Egg Harbor Township at the present time. This building will basically be a rental for special events and a location for some of the organization meetings they have with no charge.

Mr. Warker asked how many days of the week will there be occupants in this building.

Mr. Hawkes replied he hopes every day. Mr. Hawkes is not sure at this time how many days the building will be used. There may be times when the building is used at the last minute.

Board members asked various questions pertaining to the hours the building will be used.

Mr. Hawkes notes with them being a radio station there are many people that look to them for resources and they want to be able to provide the building when an organization may need it.

Mr. Warker asked if a member of the staff will be present when the hall is rented out?

Mr. Hawkes replied yes, someone from their organization will be present, they will act as their own security, maintenance and to ensure that everyone is respecting the neighborhood.

Mr. Michel noted there are some similarities in the faith based work that the applicant will be doing but they are dissimilar that they are not based in Egg Harbor City as part of a church and want their club house here. But that does not mean the board should say no to the use. This application can be heard as a use variance. Mr. Michel is not finding the use substantially similar to the Knights of Columbus Use. The board has not had the opportunity to evaluate specific days of the week and the hours of the day the building will be occupied. Mr. Michel noted this use may be of a greater intensity then the prior use. Once the interpretation is granted it will run with the land. The Use Variance also runs with the land however you can have limitations and hear testimony about the use, you can impose conditions that will run with the land and they will be restricted with that use. Mr. Michel wanted to remind the board that this is a single family residential area. Mr. Michel noted we need to hear testimony on how this property will operate and how it may evolve over time. Then this board takes the responsibility to make sure this is the best thing for the community and the neighborhood. If this property is upgraded it will be around for a long time.

Ms. Hawkes noted they are a radio station and though they are not stationed in Egg Harbor City they have a large number of supporters in Egg Harbor City so they feel as though they are the same as the Knights of Columbus serving Egg Harbor City.

Mr. Michel noted the applicant has done their public notice and with the amount of testimony that was given tonight does not clearly show that the use is substantial y similar. However, the Applicant can move forward with the use variance that they also applied for.

Ms. Hawkes believes that the uses are similar and would like to reserve the right to circle back and take point by point each use.

Mr. Prime went over the appeal process if the applicant is not satisfied with the Boards interpretation. Ms. Hawkes compared what they were told about the Knights of Columbus to what Spread the Gospel Inc. does.

Mr. Michel wanted to focus on days of the week that Knights of Columbus operated, days per year, hours of operation, number of employees or number of guests. These items are all important to the board.

Mr. Prime had a few questions for clarification,

1. The Knights of Columbus Building is going to be purchased by Spread the Gospel Inc. The applicant replied yes.
2. Will any janitorial services be used there. The applicant replied no.
3. Will there be any broadcasting from the radio station there? The applicant replied no.

Mr. Warker asked if they would be storing any janitorial supplies at this location.

Mr. Hawkes replied no he has over 4000 feet of warehouse space in Egg Harbor Township. He also has access to a storage unit for equipment.

Mr. Colby asked if there will be any Hawke vehicles parked at the site. Mr. Hawke said they will not be any Hawke vehicles stored on this site.

Mr. Michel discussed that the Applicant sounds as though they would like to be more ambitious than the Knights of Columbus and get more use out of the building. If so this would be an expansion of a non-conforming use. They want greater use than what the predecessor had. Mr. Michel noted it would be in the applicant's best interest to ask for a use variance and then clearly define what they want to do in the building and at the property, otherwise they will be limited to what the Knights of Columbus did. Mr. Michel also stressed to the Board that whatever decision they make tonight it will run with the land.

The Applicant, Professionals and members discussed what direction should be taken.

Ms. Hawkes noted if Egg Harbor City has certain rules pertaining to noise then they will follow the rules of Egg Harbor City.

Mr. Michel said the framework for this entire discussion is the fact that the use they are proposing is not a permitted use in the zone, it is not permitted in Egg Harbor City anywhere. In order for the Land Use Board to review this we have to go into an evaluation. The hours of operation are a business plan and must be decided upon by your business. It is essential for the board to understand what your use is going to be and how the board might find it necessary to limit that use.

The applicant and board members discussed the amount of days the Knights of Columbus used the building in the last three years.

The applicant was not sure of a certain number.

Chairman Peterson noted he feels this building was never intended to be a rental hall. This building was built back in the 1950's and the Catholic church has been here for 100 years. This was a result of the Congregation being involved with the Knights of Columbus and most likely the original use was for Knights of Columbus meetings and ceremonies. In time, it evolved into a place for fund raisers and this helped the congregation. The Chairman is in favor of the project however to compare it to the Knights of Columbus will be hard to do. Also, The Chairman noted at the time this building was in use there were no rules for parking, circulation, lighting and public safety which now must be addressed if the facility will be rented out.

Ms. Hawkes asked if they could move forward to the Use variance.

Chairman Peterson opened the floor to the Public for comments on this matter. The following comments were made;

Kenyatta Covington lives across the street from the Knights of Columbus Building on St. Louis Avenue. As a business person, she is in favor of this proposed use. Mrs. Covington spoke about the years she attended many different events at the Knights of Columbus building. She would much rather see the building being occupied then being empty with for sale signs. For herself and the neighbors there only concern is rowdiness and parking. However now that she knows who is purchasing the building she believes that things will be kept under control. Also, when guests use the building they tend to park on St. Louis Avenue and they should be told to use the parking lot.

Manny Ortiz was present and sworn in by Duncan Prime. Mr. Ortiz was concerned about the parking also. He wanted to hear more about the business long term. However, Chairman Peterson said at this time comments are only to be made concerning if the applicants use is identical to the Knights of Columbus Use. Once they move to the use variance parking questions and comments can be addressed.

Mr. Garth said the board does not want to make a decision without enough details because it will affect the people who live in that area. More details are needed for a decision.

Mr. McGowan noted we need to know the details of the Knights of Columbus to compare your use to. More details are needed.

Ms. Hawkes asked that the board make a ruling on the interpretation so they could move forward.

Mr. Prime noted the Applicant has applied for a use variance and may move forward.

A motion was made on the interpretation that the use is identical to the Knights of Columbus by Mr. Colby, seconded by Gladys Torres

Roll Call: Chairman Peterson no, Mr. Warker no, Mr. Garth no, Mr. Colby yes, Mr. Dennis McKenna no, Mrs. Torres no, Mr. Michael McKenna no,

Mr. Prime announced the board determined that the uses were not identical or substantially similar and the Applicant can now proceed for the use variance.

Chairman Peterson called a five-minute recess.

Members reconvened.

Mr. Prime announced that the applicant we now apply for a use variance for a non-conforming use. The Applicant was asked to give more detail concerning their proposed use.

Mr. Michel gave his report dated May 31, 2107 which has been distributed to board members. Mr. Michel went over the uses that are permitted in this zone. In this case the applicant is asking for a use variance and it will be for a use or principal structure in a district restricted against such use or principal structure. This is a non-conforming use in the zone, the applicant must show that they will satisfy the positive criteria. The other requirement is that the negative criteria must be satisfied. 1. Without substantial detriment to the public good; and (2) and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. We need the Applicant to provide testimony that will help the board decide if this is an expansion of a non-conforming use and if it is what the limitations will be on that expansion. Mr. Michel noted the Applicant has adequately described who they are there affiliation of a nonprofit business which is a radio evangelist program but they want to have the ability to rent this building out for different functions and the Board should be careful about identifying what those functions may be. Most important the approval will run with the land. Whatever limitations are put with the property are also advantages for someone who buys the property in the future. Mr. Michel said it would be useful to know the types of activities that will take place on the property, the days of the week it will be occupied, the hours of the day, the number of days per year, the number of employees, the potential guests who will be on site. Mr. Michel said if this is a 365 day a year operation in a residential neighborhood there will be interruptions for those residents. Concerned neighbors that came in tonight want to make sure that parking will be handled.

Ms. Hawkes described a few different scenarios of the types of business they might come in contact with and how it would lead to people renting or using the building.

Hours and days of the week for use of the building were discussed between the applicant and board members.

Mr. Hawkes would like to be able to use the building any time of the week. Smaller events would probably take place anytime with about 30 people. Larger events would probably take place on Friday, Saturday or Sundays. It would be up to the Fire Marshall as to how people can occupy the building. In the past, it was 199 people for the maximum occupancy load. The applicant will follow all the rules on the occupancy load.

Mr. Michael McKenna – suggested having a schedule such as; Sunday to Thursday hours between 8a.m. to 10p.m. and Friday, Saturday to maybe midnight. At least if you have some kind of schedule everyone would know when the building will be occupied.

The Applicant decided on the following hours: Sunday through Thursday 8 a.m. to 10-11p.m. and Friday and Saturday 8 a.m. to 2:00 a.m. .

Mr. Garth brought up the parking and suggested having a sign for parking in the designated parking lot instead of on the street.

Mr. Hawkes noted during an event someone will be on staff and have guests park in the lot and not on the street.

Mr. Hawkes said his intention to have the parking lot paved and stripped in the future.

Mr. Prime mentioned the Board would like the applicant to return next month for a site Plan.

Mr. Garth expressed his concerns about music being too loud and that you should not be able to hear the music outside the building. Mrs. Hawkes said being a radio station they have many contacts with sound people, in the early stages of testing they will be able to note and control the noise level.

Mr. Warker asked the applicant is they are planning on doing any inside improvements to the building.

Mr. Hawkes stated they want to waterproof the basement, improve the kitchen, improve the bathrooms and polish the wood floors. They brought an inspector in to check out the building so see what work should be done.

Mr. Michel went over the requirements for the use variance and found that the non-conforming use will be fitted for this neighborhood. It is important that the board recognize that this building is not suited for another use that is permitted in this zone. This is not suited to be a single-family dwelling or large enough to be a place of worship.

Mr. Michel believes the board has enough information to render a decision on this use variance.

Public comments: none

Mr. Prime reviewed the motion;

1. The use will be by invite only and there will be no walk up
2. There will be no janitorial activities or storage on site
3. There will be no live broadcasts on site
4. The hours of operation will be limited from Sunday to Thursday 8:00 a.m. to 10 p.m. and Friday and Saturday from 800 a.m. to 2:00 a.m.
5. The Applicant has also agreed to return before the board for site plan review to address some of the comments that Mr. Michel mentioned in this report.

Ms. Hawkes would like to change the time for Sunday to Thursday to 8:00 am. to 11:00 p.m.

Board Members agreed to this change.

Mr. Prime continued in saying the Knights of Columbus building will be purchased by Spread the Gospel Inc. and not by either of the Applicants present.

Upon motion made by Mr. Michael McKenna, seconded by Keith Mullineaux

Roll Call: Mr. Peterson yes, Mr. Warker yes, Mr. Garth yes, Mr. Colby yes, Mr. Dennis McKenna yes, Mrs. Torres yes, Mr. Michael McKenna yes and Mr. Mullineaux yes.

Public Comments: Linda Taylor was present and announced she is purchasing the old ice factory located at 459 Philadelphia Avenue and is planning to start a photography studio, gallery and workshop space. She was present tonight to introduce herself to the board and see the process of coming before the board with an application.

Linda contacted Mr. Michel concerning this matter. Mr. Michel noted this will be a permitted use and noted that the site needs serious attention. Mr. Michel noted this application will be for a Minor site plan or a site plan wavier. Ms. Taylor will be contacting Mr. Michel to start the process.

Old Business: none

Questions or comments from the Board: none

Council Report: none

Mr. Ryan McGowan made the announcement that the City received official notice that the City received \$723,000 to extend the bike path from Diesterweg Street to the Egg Harbor City Lake.

Discussion on Temporary Storage - Chairman Peterson announced the board will discuss this matter at the next meeting.

Adjournment: Upon motion made by Mrs. Torres, seconded by Mr. Warker and carried the meeting was adjourned.

Respectfully submitted
Donna Heffley, Land Use Board Secretary