

HILLSBOROUGH TOWNSHIP PLANNING BOARD

PUBLIC MEETING MINUTES

September 14, 2017

Chairman Shawn Lipani called the Planning Board Regular Public Meeting of September 14, 2017 to order at 7:33 pm. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Hillsborough Township Municipal complex.

Chairman Lipani announced the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Mayor Carl Suraci - Present
Robert Wagner, Jr. - Present
Committeeman Frank DelCore -Present
Robert Peason - Present
Stephanie Forrest - Absent
Neil Julian, Vice Chairman - Present

Sally Becorena -Absent
Shawn Lipani, Chairman - Present
Kenneth Hesthag, Secretary - Arrived 7:35
Ron Skobo (Seat Alt. #1) - Present
Sam Weinstein (Seat Alt. #2) - Present

Also present: David K. Maski, PP, AICP, Planning Director; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Lucille Grozinski, Board Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

DISPOSITION OF MINUTES

- September 07, 2017

A motion to approve was made by Mr. Weinstein, seconded by Mr. Skobo.

Roll Call: Mr. Peason - yes; Mr. Skobo - yes; Mr. Weinstein - yes; Vice Chairman Julian - yes; Chairman Lipani - yes. Motion carries.

DISPOSITION OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

None

SPECIAL COMMITTEE REPORTS

None

BUSINESS FROM THE FLOOR

None

CONSIDERATION OF ORDINANCES

None

PUBLIC HEARING - SUBDIVISION/SITE PLAN APPLICATIONS

- ***Distinctive Properties, LLC - File 09-PB-06-SRV (2017 Extension)*** - Block 163.22, Lot 40 (formerly Block 163, Lot 21.C) - Amwell Road. Applicant seeking a **three-year extension** of approval for the Major Site Plan granted by the Planning Board for File# 09-PB-06-SRV, Resolution dated August 05, 2010, for property in the GA, Gateway A Zoning District, and in the ASD Overlay Zone.

Michael O'Grodnick, Esq. of Savo Schalk Gillespie, O'Grodnick, Aquilio & Fisher, P.A., representing the Applicant, said one of the owners of the property was present to testify. He said the preliminary and final major site plan was approved on 08-05-10. The approval is for construction of 14,000 sf. of retail space in two separate buildings, with 49 parking spaces, on a ten-acre lot. The property is located at 440 Amwell Road.

Mr. O'Grodnick said although the application started in 2009, it was not through all of the compliance matters until the Maser memorandum dated 01-02-12. The approval in 2009 was automatically extended by the Permit Extension Act; signed into law in 2008, and extended in 2010, 2012, and 2014, and expired on June 30, 2016.

Mr. O'Grodnick said the MLUL allows for extensions not to exceed three years. A final approval of a site plan grants a Developer vested rights against changes in zoning requirements for a period of two years, after the adoption of the resolution. The MLUL also tolls for certain outside agency approvals, which this

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application has. Mr. O'Grodnick referenced an Appellate case. He said given the soft costs with the approval, the Developer is requesting a three-year extension.

Bruce Jeffery was sworn in and gave the following testimony, in response to questions asked by Mr. O'Grodnick:

Mr. Jeffery said his career for the last fifteen years has been retail brokerage. He said he has acquired several properties over the past fifteen years, mostly on the renovation side, which the intension of self-management. Mr. Jeffery said he has been involved with commercial real estate for 25-30 years, strictly on the retail leasing side.

Mr. Jeffery said he and two other partners own the property in thirds. He said he and his partners acquired the property approximately eight years ago, with the intension of building a retail strip center. He said they struggled to find suitable tenants, in order for the bank to finance the construction side of the property. Mr. Jeffery said he has developed a couple of commercial properties.

Mr. Jeffery said the property is currently available for lease and sale, but their interest is mostly to build and rent it out. He said the property has been marketed for the past eight years using several different brokerage companies. Mr. Jeffery said the bank will not finance with just a letter of intent, but would need signed leases. The property is currently being advertised through signage, social media, networking and pretty much every available means of marketing. He said they have had offers to lease the property, but only for a fraction of what their interest is in the property. He said there has been occasional interest from use categories that are not of particular interest for a low rental and high requirement for lease-hold improvements, such as pizza parlors, nail salons, and beauty shops. Mr. Jeffery said the preference is to try to find national chains for the space.

Chairman Lipani asked Mr. Jeffery if he would reconsider what is being built in order to attract a different type of tenant.

Mr. Jeffery said they are open to any idea. He said if a bank approached them for a land-lease build-to-suit; they would be open to it.

Open to the public.

No questions / comments.

Mr. O'Grodnick asked the Board for consideration of the three-year extension requested.

Mr. Bernstein said the Board can grant an approval from one to three years; three being the maximum. Mr. Bernstein pointed out that the approval is now seven years old. The Board has multiple options; grant the full request, or grant something less than the number of years requested and ask the Applicant to come back at some point in time within the next three years for an update.

The Board asked questions on the amount of time involved.

Mr. Bernstein said the Board could grant a maximum amount of time of three years, at once or in part.

Chairman Lipani asked what would happen if after the three years that the property was still not developed.

Mr. Bernstein said the Developer would have to come back for another extension, but they may not necessarily be entitled to one. He said from a legal standpoint, this is the last gasp.

Chairman Lipani asked for a motion for the three-year extension so as not to burden the Applicant or Board with another extension.

A motion to approve a three-year extension was made by Mr. Skobo, seconded by Mr. Peason.

Roll Call: Mr. Weinstein - yes; Mr. Peason - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Mr. Skobo - yes; Vice Chairman Julian - yes; Committeeman DelCore - yes; Mayor Suraci - yes; Chairman Lipani - yes. Motion carries.

- **814 CRE, LLC / 814 Development (Veterinary Hospital) - File 17-PB-04-MSPV** - Block 142, Lot 33 - 212 Route 206. Applicant seeking Preliminary and Final Major Site Plan Approval; 'c' bulk variance for side yard setback; submission waivers from providing a CIS; and parking design waivers, to construct a new Veterinary Hospital with parking and stormwater improvements, on

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property in the I-1 Light Industrial Zoning District (Highway approaches must adhere to I-2 Zoning Ordinance standards) (*EC Review: 07-24-17*).

Jay Bohn, Esq. of Schiller & Pittenger, P.C., representing the Applicant, gave a brief review of the application. Mr. Bohn said the request is for an approval to build a Veterinary Hospital on Route 206. The use had previously been approved by the Board of Adjustment 10-11 years ago but that approval has lapsed. Since that time, the use has been added as a permitted use in the zone, which is why this application is before the Planning Board. Mr. Bohn said he will be presenting three witnesses: the Vice President of the company that is going to be the operator, and is in fact operating the existing veterinary clinic on the adjacent property; the Engineer; and the owner of the property.

Doug Hoffman of Compassion First Pet Hospital was sworn in and gave the following testimony, in response to questions asked by Mr. Bohn:

Mr. Hoffman said he is a Veterinarian and is the Vice President of infrastructure and facilities, and oversees construction projects for Compassion First Pet Hospitals. He confirmed Compassion First is operating the pet hospital on the adjacent lot.

Mr. Hoffman said the proposal is that the existing hospital is moved to a larger facility. He said this is a practice that has been growing steadily, and is operating out of an aged facility that is in dire need of update. The new building will allow the practice to grow and allow better service to all of the pets in the community. The vet hospital is a 24-hour operation emergency and referral practice. This hospital will get other referrals from area hospitals for the specialists that work there, as well as the different disciplines that work there, as well as emergency care.

Mr. Hoffman said 99% of the animals treated will be dogs and cats; the remainder will be what is referred to as "pocket pet", such as rabbits and ferrets. There will not be any large animals such as horses and cows.

Mr. Hoffman began to review the architectural plan. He said the hospital building will be just shy of 10,500 sf.

The exhibit was marked as the Applicant's Engineer was brought up to date what the exhibit is.

Michael K. Ford, PE, Van Cleef Engineering, was sworn in and identified the plan for the record as:

Exhibit A-1 - Color Rendering of "Compassion First Preliminary Elevation View, Sheet A2.1, Dated September 5, 2017"

Mr. Hoffman continued by explaining how the building is positioned on the property. The rear entrance will be in the front of the building.

Mr. Bohn asked Mr. Hoffman if it would be possible to make the building narrower so as to avoid having to request a side yard setback variance.

Mr. Hoffman said the veterinary hospital has already been somewhat lengthened and narrowed. If reduced further it would significantly reduce the flow of the hospital and care for the patients.

Mr. Bohn asked if the front entrance could be at the front of the property.

Mr. Hoffman said to do so would require the building to be pushed back off of the street considerably. He said given that this is a 24-hour facility, the fear is patient's owners would not be able to find the building readily. He said the safest entry for the patients is through the back side of the building.

Mr. Bohn asked if the building could be reconfigured as a two-story building.

Mr. Hoffman said doing so would severely impact patient care. Having to put a pet under anesthesia in an elevator to be moved to another part of the building is not in the best interest of the pets. He said for a hospital this small, one story is ideal.

Questions for the witness.

Chairman Lipani referenced the prior approval, this one for the temporary trailer on the existing veterinary hospital. He asked about the delay.

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Mr. Hoffman said the previous owner of the property could not finance the new hospital. Since that time, new ownership of the property has occurred, and now allowing it to be financed.

Chairman Lipani asked if the finances are in place to immediately start building the facility.

Mr. Hoffman said the goal is that once approval is granted, construction will begin so that it is completed by end of 2018.

Vice Chairman asked if the existing building will be knocked down.

Mr. Hoffman said the hospital will move over the course of a weekend, so that one can stay open during that time. The existing will close completely. The trailer that exists will be removed. He said they do not own the rest of the building so its disposal will be up to the owner of the land.

Committeeman DelCore asked for clarification on the property owners of the existing and the proposed.

Mr. Hoffman said the hospital is currently owned by T&T Realty. The new piece of land is being sold to the current Developer. T&T will retain ownership of the existing building site.

Planning Director, David K. Maski, PP, AICP, stated the approval for the trailer has expired. He asked if there is any intension to come in for an extension. He said right now that trailer is there illegally.

Mr. Hoffman said if that is what is required, it will be done.

Mr. Maski said the extension would be through the Board of Adjustment.

Chairman Lipani said the Planning Board cannot grant that.

Open to the public.

Janet Leopardo - 208 US Highway 206

- Mrs. Leopardo said she and her husband own the flag shaped property behind the existing veterinary hospital. She stated her husband recalls having a conversation with the owner of the property (lot 33.01), Dr. Shirk, Jr., that when it came time to build on the property, he promised to sell the lot with the existing veterinary hospital property on it, to him after the new facility was built. She said they have had no communication with the property owner.

Chairman Lipani pointed out they still may have the opportunity to do so since the application before the Board does not include Lot 33.01.

- Mrs. Leopardo said she wanted to make it clear to T&T Realty that they are interested in purchasing the property once the move has occurred.

Mr. Hoffman pointed out they are not T&T Realty.

- Mrs. Leopardo said the last time they spoke with the professionals; the plan was to use both (T&T) properties, with their (Leopardo) driveway being used as a go-between.

Committeeman Del Core asked for further clarification.

Andrew Leopardo, Jr.

Mr. Leopardo was sworn in and gave the following testimony:

- Mr. Leopardo stated that he was never contacted in any way regarding the use of his property, which traverses both of the T&T properties. He said they have been trespassing for the past twenty years.

Committeeman DelCore suggested Mr. Leopardo ask this applicant how that situation will be remedied.

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Mr. Bohn stated the application before the Board is for a veterinary hospital that would be self-contained on its own lot and therefore would not interfere with Mr. Leopardo's property. He said if there is some issue with how the veterinary hospital is currently being operated; it is not the issue before the Board.

Mr. Bohn said they will be closing the current facility once the new facility has been built. The driveway for the new facility will be on the one lot. No one will have any reason to go on Mr. Leopardo's property.

Board Attorney, Eric M. Bernstein, Esq., pointed out there is an issue now with the existing facility. He said as the Planner has noted in his report, the existing location currently is occupying a property that is in violation of the Township ordinances and their approval. Mr. Bernstein said while it may not directly impact, it indirectly impacts the application before the Board. The current facility is occupying a situation which it should not.

Mr. Bernstein recommended that whatever resolution determined for the application before the Board, that it also address the current situation for the existing facility. Mr. Bernstein suggested that a conversation be had with Mr. and Mrs. Leopardo being that all of the parties were present. He said the intent expressed is that the new facility will be built within a year, but the current situation has gone on for much more than that.

Mrs. Leopardo had a question on the trees. Mr. Bernstein suggested the question be asked after first hearing testimony from the Engineer who would be qualified to address it.

- Mr. Leopardo asked Mr. Hoffman about his role in ownership.

Mr. Hoffman explained he is not a veterinarian with Red Bank Animal Hospital (RBV). He said RBH is owned by Compassion First Pet Hospital. Mr. Hoffman said he knows Dr. Shirk but does not know of any arrangement.

Committeeman DeCore told Mr. Leopardo that neither the Board nor the applicant can discuss the arrangement with Dr. Shirk. He said the Board wants to have the issue on the use of the driveway discussed on the record and resolved. He said the other issue needs to be addressed with the current owners of the property.

Mr. Bohn called the applicant's Engineer.

Exhibit A-2 - Colorized version of the Site Plan

Michael K. Ford, PE, continued his testimony:

Mr. Ford reviewed the exhibit. He said the existing facility is to the north of the property; the Leopardo's property is behind that.

Mr. Bernstein asked Mr. Ford to show the access to the current facility.

Exhibit A-3 - Color version of Existing Features Plan

Mr. Ford reviewed Exhibit A-3, pointing out the pre-existing features on the subject lot which contained a house and some out buildings, and the existing veterinary facility to the north. Mr. Ford said the access straddles the property line between Mr. Leopardo's property and the residential property, which has since been removed after the 2008 site plan approval for this project. He said construction actually started on this site. Mr. Ford said there was a third driveway that accessed the residence. There is a driveway to the north that services the existing veterinary hospital. Once developed, there will be a separate driveway for the new site. The new driveway has a NJDOT permit, for which an extension has been requested. The existing driveway in the Leopardo's flag lot will remain as well. The three driveways are reflected on the current DOT plans for this area.

Chairman Lipani asked if there will be some sort of delineation made between the vet property and the Leopardo's property.

Mr. Ford said there is a proposed landscape buffer on the plan between the (new) driveway and the property line. As part of the landscaping requirement is a tree mitigation plan. He said a substantial portion of the tree mitigation is being proposed between the driveway and property line to the north.

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Township Planning Director, David Maski, PP, AICP, asked about the existing conditions. He asked if the subject lot is currently being utilized for parking for the existing veterinary practice.

Mr. Ford said it is. He stated that was represented to the Board of Adjustment at the time of the application for approval of the temporary trailer. He said that has been the condition for some time.

Mr. Maski said during construction, that parking would then disappear.

Mr. Ford agreed.

Mr. Maski asked if the existing practice will continue, but with less parking.

Mr. Ford agreed, confirmed by Mr. Hoffman from the audience.

Mr. Ford said approval of the site plan for the new facility would resolve some of these issues. The temporary parking would go away; the driveways would be reestablished; the existing vet clinic with the temporary trailer that has exceeded its time will be addressed with the development of this project. He said it is the amount of time it has taken that has let this situation continue.

Mr. Ford said all outside agency approvals had been obtained for the 2008 Board of Adjustment approval. None of those aspects have changed. Re-approval from all outside agencies has been obtained. The DRCC has provided a letter of approval but requires a copy of the resolution of approval from the Board prior to issuing their approval. The stormwater management had already been approved by the DRCC. An application for renewal of the freshwater wetlands permit, at the suggestion of the Environmental Commission. Mr. Ford said there is an isolated wetland area at the extreme rear of the property but there is no development proposed in that area, so there is no activity or impacts to wetlands.

Mr. Ford said the 2008 BOA approval extended through June 2016 by way of the Permit Extension Act. The previous owner started construction by removing the existing structures, and put in a construction tracking pad, which is visible now from Route 206. The clearing was done and the soil erosion and sediment control was established by way of the silt fence. Essentially, the site was prepped for what would have been the next step, which is the site improvement.

Mr. Ford said the access driveway will be curved and paved. He said there is sanitary sewer existing on the site which will service the new facility as well. There is also public water. In addition to the buffer along the driveway adjacent to the Leopardo's property, there will be landscaping along the driveway for the neighbors to the south.

Mr. Ford said the property is in the I-1 District but required to adhere to the I-1 zoning since there is highway frontage. Because of that, a wider lot is required. This property does not meet the 300 ft. requirement and therefore needs a variance for the 160 ft. lot width, existing condition. The subject property is long and deep; over 1,000 ft. deep. Mr. Ford said the second technical variance required is for the building setback. He said 50 ft. is required; 40 ft. is proposed along the side yard to the south, which is the same as the request for the prior approval, which has since expired. The design waivers that were part and parcel with the prior approval have been carried forth to this application. The request is for technical design standards in the parking area for parking spaces of 9' x 18', where 10' x 20' is required; and for a parking aisle of 25 ft. where 30 ft. is required. A waiver is being requested for not having a loading space, as required in industrial zones. Mr. Ford stated the new owner, Compassion First, will be consistent with the prior owners, Red Bank Vet and Dr. Scwirk in that they do not anticipate any tractor trailer deliveries. Deliveries will all be made by typical UPS box-type trucks. As testified to by Mr. Hoffman, there is not an expectation that there would be a need for any large trailers for patient deliveries.

Mr. Ford said there will be an on-site trash enclosure that would be opposite the Leopardo's site, which is a residential use in an industrial zone. The trash enclosure would be enclosed in a solid wood fence, consistent with the ordinance. The AC units are proposed along the south side of the property. The neighbor to the south is an industrial park and detention basin. There are no mechanicals proposed on the roof. An emergency generator is also proposed along the southern portion of the property between the building and industrial park. The mechanicals will be screened and not visible to the neighbors to the north or Route 206. The wooded area along the southern boundary will be preserved. There is no immediate intention for development of the rear portion of the property. However, the plan does include a conceptual drawing of how the driveway may be extended in the future. Any such development of the back portion of the property would be part of a separate application before the Board in the future.

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Mr. Ford said there was a condition of the 2008 Board of Adjustment approval that has been perfected and implemented

For a cross-access easement for a shared driveway through this property for shared driveway access or emergency access could be provided for. The cross-access easement has been recorded.

Township / Board Engineer, William H.R. White, III, PE, CME, said he had spoken with Mr. Ford about the application, which was previously under heavy review as a Board of Adjustment application. Mr. White asked Mr. Ford to address tree mitigation.

Mr. Ford said there was a question as to the calculation for tree mitigation. He said they will likely implement the 1.5% maximum threshold Economic Hardship for the tree mitigation requirement to Mr. White's satisfaction. He said they are not proposing any less trees than in the BOA application.

Mr. White said the other minor issues raised in his memo can be addressed in the plan.

Mr. Ford said detailed foot-candle analysis will be provided for the lighting, as to Mr. White's approval. He said there are waivers requested for some of the Architectural Design Standards for the layout of lighting within the parking lot. The lighting will be on standard 15 ft. high shoebox type light fixtures. These fixtures will likely use LED or energy efficient lighting that will provide a white light, not a yellow light.

Vice Chairman asked Mr. White if there were any issues related to the traffic study.

Mr. White said a revised traffic study was submitted and provided the information required.

Committeeman DeICore asked why the larger spaces could not be accommodated.

Mr. Ford said although they have more land, the spaces provided seem adequate for the layout. He said most projects he has worked on recognize the RSIS standards of the 9' x 18' parking space and 25' aisle. The smaller spaces allow for less impervious coverage. Right now the stormwater runoff will be managed by drywells in front of the property. If the spaces are larger, it may cause greater disturbance.

Mr. White noted the spaces are not for a high turnover use, such as a Home Depot, which may need to accommodate larger vehicles. Most visiting the site will come in a family vehicle and stay for a period of time.

Committeeman DeICore asked how many spaces are provided verses required.

Mr. Ford said the number of spaces complies with the ordinance; thirty-six spaces are required, forty are provided. He reviewed the Planning comments. Mr. Ford said they are not proposing any street lights that will be owned and maintained by the public; they will all be private. The ordinance will be complied to regarding parking lots and driveways. Mr. Ford said they worked with the DRCC to upgrade the stormwater management layout from the original plan, which now includes quality control, not just quantity.

Mr. Ford said this parcel of land is in the section of the future "proposed Route 206", which is essentially the middle section for NJDOT. The north section by Dukes Parkway has already been completed; the south section, which includes the Bypass, is understood to commence construction in 2018. Mr. Ford said his understanding is that the takings of the access properties are being worked on by NJDOT for the properties in the middle section of the State's project.

Mr. Maski agreed that this (middle) section is actively being designed by the State. He said the Access group does not consult with the Design group at the State. This was evident with the Senior Housing project, for which Van Cleef was involved. The Access group gave permission to put utility poles in, but the Design group would not. Mr. Maski asked Mr. Ford to obtain a sign-off from both the Design and Access groups at the State so as to alleviate any conflicts.

Mr. Ford said they have met with both groups already regarding the classification from major to minor. Both are aware of the project, at least administratively. He said they understand that in the future, the condition will be "right-in / right-out" only. There will be a concrete divider down the middle of the highway with two lanes going northbound and two lanes southbound in front of this property. Mr. Ford said he will be sure to communicate clearly with NJDOT as to the intent of this project and cooperate with the State as to the future improvements of this middle section project.

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Mr. Maski continued with the comments from his report. He said the matter of the trailer overstaying its approval has already been addressed. However, the testimony has been that parking for the existing practice will be removed due to construction at the new site. He asked if this will cause a parking deficiency for the existing veterinary hospital.

Mr. Ford said it will be an issue during construction, albeit temporary. He said the matter has been discussed privately. There is a possibility of providing parking at the industrial property to the north of the existing practice, which is not being utilized now. That would be at a property that is not part of this application for means of temporary parking.

Mr. Bernstein asked for clarification on how the proposed site is currently being used.

Mr. Ford said there is an existing driveway between the existing vet clinic facility, and the location of the new proposed facility, which is partially on both of those lots and on the Leopardo's lot. There is some parking in front of the existing vet clinic, and there is a gravel area on the proposed lot, used for parking.

Mr. Bernstein pointed out that access to the parking areas is being used without benefit of an access easement from the Leopardo's according to the testimony heard. He asked if a cross-access easement will be obtained to allow the current facility and the current applicant to access the Leopardo's property, as apparently has been the case for some time.

Mr. Ford said he understood the question but that it was a legal matter.

Mr. Bernstein advised the Board that if this application is approved, there should be a condition of approval that prior to any approval or necessary permits, there should be a cross-access easement. He said Mr. Maski raised the issue that the existing facility needs to get another approval for the "temporary" situation.

Vice Chairman Julian asked if it made sense to consider approval without the applicant first addressing those issues.

Mr. Bernstein said an approval can be conditioned upon approval or the Board can choose to hold this application off until the outcome of the other application is known.

Chairman Lipani said it does not look feasible to have parking on the adjacent lot since there is no access to the vet facility without having to walk on Route 206.

Mr. Ford said he has not had those discussions with the neighbor but the applicant has. It may involve a temporary pathway between the lots.

Chairman Lipani commented that it is obvious there is a parking issue.

Committeeman DelCore asked if there was anything planned to direct the vehicles entering to the right driveway for the site.

Mr. Ford said Mr. Maski raised this issue in his report. There are no signs on the plan. The existing "Red Bank Veterinary" sign would need to be removed once the existing facility is decommissioned. He said in preparation for this evening's meeting, the applicant agreed to develop a sign package, to include directory signs. He said although they do not have it ready for this hearing, the intent would be that it would comply with the sign ordinance.

Mr. Maski said the intent is to provide it at a later date.

Mr. Ford agreed.

Chairman Lipani said it is hard to approve a site plan without signage.

Mr. Maski said in particular, access signage.

Mr. Ford said the prior BOA approval included a sign on the building.

Mr. Bernstein asked how close the proposed driveway is to the current property owner's driveway.

Mr. Ford said it is about 30 ft. south of the property line. That location has not changed from the prior DOT permit.

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Mr. Bernstein asked how close the current driveway is to the property owner's driveway.

Mr. Ford said it is a wide gravel area that that extends over multiple properties.

Chairman Lipani asked how many cars are parked on the gravel lot on a normal basis verses the number of cars parked in the front lot. He asked how many cars would need to be relocated, including for employees.

Mr. Hoffman said there would be approximately twenty employee cars.

Chairman Lipani said the customers park in front of the vet clinic while the employees park on the side.

Mr. Hoffman agreed. He said that is why it is feasible to put the employee parking on the other lot and add a pathway. He said it would be for employees only, not for clients.

Mr. Maski said so now there is an issue of relocating twenty parking spaces with no accommodations before the Board to show where they will be going in the year or so it will take to build the new site. Mr. Maski said the Board will need to see more.

Chairman Lipani commented that there are a lot of things up in the air that need to be addressed before the Board can make a decision.

Mr. Bohn said he understands that the Board is concerned with what will go on during construction.

Mr. Bernstein said the Board is concerned with what is going on now. He said there is an applicant before this Board that is in violation of a variance. Approval of this application would not address the current and foreseeable issues.

Mr. Bohn said to some extent, those concerns are appropriate for this Board in connection to this application. But to some extent, the issues go to enforcement of the zoning ordinance, which is not this Board's concern. Mr. Bohn said he is not minimizing compliance with the zoning ordinance.

Mr. Bernstein suggested that the issues be remedied before any enforcement issues are taken, which may be more problematic for this application.

Mr. Bohn agreed that the matter of the trailer on the other property is something that will have to be pursued with the Board of Adjustment. He said the matter of temporary parking during construction is a matter that this Board can concern itself with.

Mr. Bernstein said that includes the existing temporary parking from what it appears, was never granted permission in the first place.

Mr. Bohn said the temporary parking could be addressed by the Board of Adjustment along with the temporary trailer.

Mr. Bernstein said that is correct, however, you are now talking about needing approvals from the Zoning Board to continue the situation at hand before this Board can address the issue of what to do in the future. For example, if the Zoning Board said you could no longer operate on that property, then there could potentially be another application for this Board to consider.

Mr. Bohn disagreed saying that aside from the economics issue, there would be no reason why the applicant could not seek to perfect that approval without regard to what is going on at the other site.

Chairman Lipani suggested the applicant take care of the outstanding issues before coming back to the Planning Board so that there is certainty as to what the corrective measures will be, rather than deal with unknown possibilities.

Mr. Bernstein added, if the Zoning Board denies the request, this application then falls apart.

Mr. Bohn asked for a 5 minute recess.

Break 8:55 - 9:05

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Mr. Bohn thanked the Board for the recess and asked to bring up another witness to address some of the claims Mr. Leopardo made about use of his property.

John Dugan, Compassion First Director of Construction, was sworn in and gave the following testimony, in response to questions asked by Mr. Bohn:

Mr. Dugan said he was formerly with Red Bank Veterinary Hospital, so he is familiar with some of the issues raised. He said he had been with RBV when they went before the Board of Adjustment for the temporary trailer.

Mr. Dugan said Mr. Leopardo's statements regarding use of his driveway were inaccurate. He said he has had numerous discussions with Mr. Leopardo over a number of years. Mr. Dugan used the exhibit to display his claim that Mr. Leopardo's driveway is located to the right of where he drives to access his property. He said there is about a 6 ft. drop after that area so he would not be able drive on that area. He said the property has been a mess for years. Mr. Dugan said this application will resolve the issue with property lines. He said he has been talking to Mr. Leopardo for eight years to try to resolve this. Mr. Dugan claimed Mr. Leopardo has been utilizing the stone driveway put in place at the time the trailer was put in place, to gain access to his house. He said it is a mutual problem that can be remedied with this application.

Mr. Hesthag said that probably means there is room to work together. But whether or not Mr. Leopardo is using your property is not relevant because he does not have an application before the Board. Whether or not the applicant is using his driveway for any purpose is the issue that needs to get resolved. He said the Board cannot grant an approval based on conditions we do not know of.

Mayor Suraci reiterated the need for a cross-access easement.

Mr. Bernstein stated that the approval that was granted by the Zoning Board has since expired. Prior to that, the zoning has changed to allow the use so the application is now before the Planning Board. He said the issues need to be addressed in multiple phases before coming back to this Board. Right now it appears this application has too many moving parts.

Chairman Lipani agreed.

Mr. Bernstein said right now there is a private issue with the current applicant; and issue with the landholder; and an issue with the current neighbor, separate and apart from this application. Mr. Bernstein said not only does the parking for the temporary need to be addressed but the parking for the current also needs to be addressed because right now the existing facility is using a property that is not approved or zoned for parking. He said even if the issue with Mr. Leopardo's driveway did not exist, the vet clinic would have no authority to be parking at this site (Lot 33).

Mr. Bohn noted that all of the issues can be resolved by going before the Zoning Board.

Mr. Bernstein said he did not disagree, but that there are more immediate issues that need to be resolved before this applicant should come back before the Planning Board. Mr. Bernstein recommended the applicant have a conversation to deal with the issue of the driveway, and that the applicant work with the Zoning office before the Board hears the case, as to how to deal with the temporary parking which has now become an issue before the Township.

Mr. Bohn said they are prepared to have that conversation and to make that application.

Chairman Lipani reiterated that the Board is suggesting the applicant come back before the Board after that is resolved.

Mr. Bernstein clarified that it involves more than approval by the Zoning Board. The applicant needs to resolve the situation of the current temporary parking, which needs to be resolved with the Zoning office now. The Zoning application may resolve the issue of the trailer and future parking relative to the construction, but the current use of the property, in which it is being used for something it is not approved for, will not be resolved with an application. That issue needs to be dealt with the Zoning Department beforehand.

Mr. Maski said all of the loose ends need to be cleaned up and look at who has jurisdiction.

Mr. Bernstein asked if the applicant would be willing to grant an extension at least until the end of the year.

PLANNING BOARD MEETING MINUTES
September 14, 2017

Mr. Bohn said he preferred to schedule another appearance before then to update the Board.

After discussion, October 12th was offered as a continuation date.

A motion to continue the application to October 12, 2017 without further notice was made by Mayor Suraci, seconded by Mr. Peason.

Roll Call: Mr. Weinstein - yes; Mr. Peason - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Mr. Skobo - yes; Vice Chairman Julian - yes; Committeeman DelCore - yes; Mayor Suraci - yes; Chairman Lipani - yes. Motion carries.

Mr. Bernstein again suggested that the parties talk in the interim.

CORRESPONDENCE

- Ordinance 2017-07 - Adopted 09-12-17 by Township Committee
- *The New Jersey PLANNER* - Volume 78, No. 4

Mr. Maski mentioned that the next two meeting dates currently had no business scheduled.

A motion to cancel the September 28th and October 5th meetings was made and seconded. All were in favor, none opposed; motion carries.

Chairman Lipani announced the next meeting will be held on October 12, 2017.

ADJOURNMENT

A motion to adjourn was made and seconded. All were in favor, none opposed; motion carries.

The meeting was adjourned at 9:21 p.m.

*Submitted by:
Debora Padgett
Administrative Assistant / Planning Board Clerk*