

C: COUNCIL
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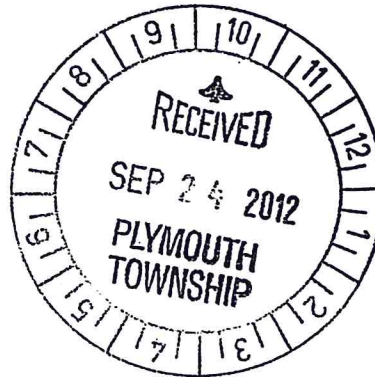
SEPTEMBER 17, 2012

The Plymouth Township Zoning Board held a public meeting at the Plymouth Township Building on Monday, September 17, 2012.

The meeting was called to order at 7:05 PM.

The following were present:

Vincent Frangiosa	Chairman
Robert Esposito	Vice Chairman
James Saring	Member
Michael Mattioni	Member
Robert Sassi	Member
Bernadette Kearney	Solicitor
David Conroy	Zoning Officer
Paula Meszaros	Court Reporter



The Pledge of Allegiance was recited.

A moment of silence was observed for Officer Brad Fox.

Ms. Kearney advised that the application for Jean A. Cohen-Harte has been continued until October 15, 2012.

The Board heard the following:

JODI L. LUKENS: On an application for Variances from Plymouth Township Zoning Ordinance No. 342, as amended, Article XIX, Sections 1908.G.1 & 1908.1.

The Variances requested are as follows: Permission to place a detached garage in side yard closer than 4' from the side property line.

The property is located at 27 Jody Drive in a "C" Residential Zoning District.

Ms. Jodi Lukens was sworn-in testify.

Ms. Lukens advised that she is requesting a detached garage being put in next to her single family home. Ms. Lukens stated that her back yard is just a slope going down to protective land. Ms. Lukens advised that the garage would go on the only flat spot of her property, and this is to the right side of her home. Ms. Lukens stated that the garage would be close to her neighbor to the right.

Ms. Lukens advised that the neighbor to the right at 25 Jody Drive has no objection to the

proposal. Ms. Lukens stated that other neighbors notified on Jodi Drive do not have any objections to the proposal.

Ms. Lukens advised that there are already a number of detached garages in the neighborhood. Ms. Lukens stated that a number of these garages appear close to the next door neighbor. Ms. Lukens advised that one of the garages is within 4' of the fence on the property line. Ms. Lukens stated that one of the properties has a two car garage close to the property line.

Member Sassi inquired as to where the garage would start. Ms. Lukens advised that the garage would start at the spot where the property evens out. Member Sassi asked if the applicant will comply with what the Township stipulates for drainage. Ms. Lukens stated that they will make sure that drainage will not go off to the right on the neighbor's property.

Member Mattioni asked if there would be a 1 car garage. Ms. Lukens advised that this is correct. Member Mattioni asked if the garage would be 14' by 26'. Ms. Lukens stated that this is correct. Member Mattioni asked if the distance from the house to the fence is 17'. Ms. Lukens advised that this would be the approximate distance.

Member Mattioni asked if the sidewalk is meant to be 3' wide. Ms. Lukens advised that this is a standard 3' sidewalk. Member Mattioni commented that it seems that the sidewalk would abut the garage. Ms. Lukens stated that her garage shown on the plan would actually be wider.

Mr. Mike Griffis was sworn-in to testify.

Mr. Griffis advised that the garage will be a bit smaller than 14' by 26'. Member Mattioni stated that the garage and sidewalk would combine to take up 17', and the distance between the house and the fence is 17'. Mr. Griffis stated that the garage would be relatively close to the sidewalk. Member Mattioni expressed concern that there will be very limited space to get to the back of the house. Member Mattioni stated that the numbers do not work, and public safety personnel would have trouble getting to the back in an emergency situation.

Member Saring asked if the fence is on the property line. Ms. Lukens advised that the fence is about 1' inside the property line.

Member Saring asked if the sidewalk can be removed, and the garage be put up against the house. Mr. Griffis advised that this would not work because of the walking patterns on the site.

Member Saring asked if the garage could be reduced to 11' or 12' for one car. Mr. Griffis advised that he would like to use as much land as possible.

Member Esposito asked if the garage would be used primarily for a car. Ms. Lukens

advised that there might also be a few minor items in the garage with the car, however nothing flammable would be stored.

Member Esposito asked if there are any properties on the applicant's side of the street that have detached garages. Ms. Lukens advised that after her first neighbor's home the style of the homes change, and garages are built into the homes.

Ms. Kearney asked if the trees on the side of the property will come out. Ms. Lukens advised that this is correct.

Mr. Conroy advised that walls will have to be fire rated because they are so close to each other. Mr. Conroy stated that the Building Department can give the applicant more information concerning what the distance can be between the two structures.

Member Esposito asked if the requirement outlined by Mr. Conroy would make a difference with the distance between the two buildings. Mr. Griffis advised that there would not be a problem because there is more than 5' distance.

Chairman Frangiosa suggested that the applicant may want to continue their application because of the uncertainty concerning the numbers. Chairman Frangiosa advised that the applicant can get this information, and then reappear before the Zoning Board in October. Ms. Lukens stated that she would desire this continuance.

Member Esposito made a motion that the application for Jodi Lukens be continued until October 15, 2012. Member Saring seconded the motion. Members Esposito, Saring, Mattioni, Sassi, and Frangiosa voted in favor of the motion. The motion passed by the vote of 5-0.

601 GERMANTOWN PLAZA, L.P., C/O JAY R. SPECIAL: On an application for an elimination of conditions A, B, and C imposed by the Zoning Hearing Board on its Order dated May 18, 1981 in the application of Host Restaurants, Inc.

The property is located at 601 W. Germantown Pike in "Limited Commercial" Zoning District.

Michael Savona, Esq. was present to represent the applicant in presenting their application.

Mr. Savona advised that the applicant is interested in redeveloping the site at 601 W. Germantown Pike. Mr. Savano stated that the building on the site was built in 1972. Mr. Savona advised that a new restaurant and building would improve the condition of the site. Mr. Savona stated that the problem exists in that the restrictions imposed on the 1981 decision are handcuffing the redevelopment for the site.

Mr. Jay Several was sworn-in to testify.

Mr. Several advised that he is a member of the 601 Germantown Plaza, LP. Mr. Several stated that he is involved with the management for the site in question. Mr. Several advised that he is a full time developer specializing in the redevelopment of existing sites.

Submitted for inclusion into the record were the following:

- A1) Agreement Of Sale With GE Capital
- A2) Deed

Mr. Several advised that the applicant has an agreement of sale (A1) for the site. Mr. Several stated that the deed (A2) shows the owner, Net Lease Funding, LP, of the property with whom the applicant has entered into the agreement of sale.

Mr. Several advised that the applicant intends to embellish the site. Mr. Several stated that the existing building would be replaced with a new building on the same footprint. Mr. Several advised that this new building would functionally fit the requirements for a current restaurant.

Mr. Several advised that the footprint is approximately 10,069 square feet. Mr. Several stated that the current tenant on the site is Houlihan's Restaurant. Mr. Several advised that Houlihan's is a full service restaurant with a bar. Mr. Several stated that a new restaurant tenant would be the best use for the site.

Mr. Several advised that remarketing of the property has been reviewed. Mr. Several stated that many prospective restaurant tenants do not want to come to the site because of zoning restrictions.

Submitted for inclusion into the record was the following:

- A3) Zoning Board Decision (5-18-81)

Mr. Several advised that the applicant is seeking to have the restrictions on hours, the size of the bar, and the number of bar stools lifted. Mr. Several stated that these restrictions were placed on the relief granted from 5-18-81 Zoning Board Decision.

Mr. Several advised that the conditions that the applicant is requesting to be lifted have proved to be an impediment in remarketing the site. Mr. Several stated that restaurants now use the bar area location to serve food. Mr. Several advised that restaurants now want to capture as many hours as possible because of the high costs of operating the restaurants.

Mr. Several advised that there are other restaurants within a ½ mile from the applicant's site that operate with liquor licenses. Mr. Several stated that these restaurants are located at the Plymouth Meeting Mall. Mr. Several advised that these restaurants were built after the 1981 restrictions were imposed on the applicant's property. Mr. Several stated that these restaurants have hours that go beyond these restrictions.

Mr. Several advised that he previously worked on redevelopment of sites that are adjacent to residential communities. Mr. Several stated that they have worked with the neighbors to make sure that intrusion does not happen to their properties. Mr. Several advised that they have made sure that there is the proper buffering along the residential properties.

Mr. Several advised that it was determined that the rear buffer and the fence on the applicant's property need to be improved upon. Mr. Several stated that landscaping in the rear is insufficient. Mr. Several advised that lighting is outdated, and some of the lightposts are now missing. Mr. Several stated that these deficiencies are having a detrimental impact on the neighboring residential properties.

Mr. Several advised that redevelopment will help improve the situation for the residents. Mr. Several stated that there would be new site lighting with shields. Mr. Several advised that there would be a minimum amount of spillage over the property lines. Mr. Several stated that a new board on board fence would replace the old stockade fence, and extensive landscaping would be done in the back to buffer neighboring residential properties.

Mr. Several advised that in previous projects improvements were made. Mr. Several stated that these improvements proved to be a benefit to the neighboring residential properties.

Mr. Several advised that a potential tenant has been identified for the property in question. Mr. Several stated that the restrictions imposed in 1981 would not meet the requirements for this potential tenant. Mr. Several advised that modifications are needed for the bar area and hours of operation for this tenant to come to the site. Mr. Several stated that the applicant is seeking to have hours extended to 2:00 AM.

Mr. Ray Holden was sworn-in to testify.

Mr. Holden advised that he is President & Chief Operating Officer for Miller's Ale House. Mr. Holden stated that part of his responsibility is to identify potential sites to locate new restaurants. Mr. Holden advised that the property in question could be a viable location for a Miller's Ale House restaurant.

Mr. Holden advised that a Miller's Ale House restaurant is a casual sports theme restaurant. Mr. Holden stated that the restaurant is also family oriented. Mr. Holden advised that all food is made from scratch, and the food is of high value and high quality. Mr. Holden stated that it is desired to have neighborhood type of restaurants such as the restaurants in Langhorne, PA and Willow Grove, PA.

Submitted for inclusion into the record was the following:

A4) Packet Information – Miller's Ale House

Mr. Holden advised that Exhibit A4 shows the floor length that would be within the existing footprint. Mr. Holden stated that the existing building is proposed to be

demolished.

Mr. Holden advised that the bar will be located in the middle of the restaurant. Mr. Holden stated that food will be served from 11:00 AM to 2:00 AM. Mr. Holden advised that the restaurant will be open 7 days a week.

Mr. Holden advised that about 20 employees would be working on any given shift. Mr. Holden stated that there will typically be 6 truck deliveries a week. Mr. Holden advised that they try to receive the deliveries between 8:00 AM and 11:00 AM.

Mr. Holden advised that employees will be hired from the local population. Mr. Holden stated that about 150 employees will be hired.

Mr. Holden advised that their Willow Grove restaurant is adjacent to residential properties. Mr. Holden stated that a restaurant near residences is presently being built on Baltimore Pike in Springfield Township.

Mr. Holden advised that for restaurants next to residential properties the dumpsters will always be closed. Mr. Holden stated that lighting will not go onto residential properties. Mr. Holden advised that an employee will monitor the parking lot to make sure that no one is misbehaving. Mr. Holden stated that a landscaper will come every week to maintain the buffering and screening. Mr. Holden advised that there will be no odors going to the back of the property.

Mr. Holden advised that typically about \$5,000,000 is spent to renovate a building and property, and then to open up a new restaurant.

Mr. Holden advised that good business is done for the hours leading up to the 2:00 AM close. Mr. Holden stated that good business is important because of the high rents that must be paid. Mr. Holden advised that there will be a full menu available at all times when the restaurant is open. Mr. Holden stated that there would not be enough business for the restaurant to stay open if the restricted hours of operation remain in place.

Submitted for inclusion into the record was the following:

A5) Menu - Miller's Ale House

Member Sassi asked what percentage of the business takes place from Midnight to 2:00 AM. Mr. Holden advised that 10% to 15% of the business would take place during these hours.

Member Sassi asked what research has been gathered concerning DUI related incidents for a bar closing at 2:00 AM verse a bar that closes at Midnight. Mr. Holden advised that his establishment has not had any incidents that have caused their liquor license to become revoked.

Member Sassi inquired about the targeted customer base from about 10:00 PM to 2:00 AM. Mr. Holden advised that these customers could be people getting off a late shift from work. Mr. Holden stated that people coming from movie theaters will be looking for a bite to eat late at night.

Member Mattioni asked what companies rejected the site because of the restrictions on hours. Mr. Several advised that multiple restaurants rejected the site because of this restriction.

Member Mattioni asked if there are photographs showing what the proposed fence would look like. Mr. Several advised that a sketch of the fence was submitted with the application. Mr. Several stated that a new fence would go in the same location as the old fence. Mr. Several advised that residents will see the landscaped area rather than the fence.

Member Mattioni asked where else has the applicant done a project that has a property abutting residential area. Mr. Several advised that this kind of site was redeveloped in Cherry Hill, NJ. Mr. Several stated that this development is a strip center with two restaurants, a bank, a haircutting facility, and a military recruiting office. Member Mattioni asked if the restaurants are open until 2:00 AM in this development. Mr. Several advised that these restaurants are not opened until this time.

Member Mattioni noted that most of the Mall restaurants do not stay open until the 2:00 AM hour that the applicant is requesting. Member Mattioni stated that only Redstone stays open until 2:00 AM on Fridays and Saturdays only. Member Mattioni advised that he does not agree that the restriction of hours must be lifted to be successful. Mr. Several stated that the applicant feels that because of the highway exposure the applicant's site should have the hours until 2:00 AM. Mr. Several advised that Mall restaurants are assumed to be closed because the Mall is closed.

Member Mattioni stated that the site seems tight because of the 298 seats inside and the 114 parking spaces. Mr. Several advised that there is a cross easement with the adjacent property, and there is a lease for use of that parking lot of about 130 spaces.

Member Mattioni asked if there is anything in the Planning Agency recommendation that the applicant would have a problem with. Mr. Savona advised that the Planning Agency recommended that the restaurant be closed 10:00 PM Sunday Night. Mr. Savona stated that the applicant desires to be open later on Sunday because it is a football night.

Member Saring asked if outdoor dining is being proposed. Mr. Several advised that outdoor dining is not being proposed.

Member Saring inquired about the buffering for the lot which the applicant has the cross easement for. Mr. Several advised that this lot has a stockade fence, and there is also landscaping.

Member Saring asked how many employees are on the Houlihan's site presently. Mr. Several advised that he is uncertain concerning this.

Member Esposito asked if there will be drinks served on the smoking patio that is shown on the floor plan. Mr. Holden advised that no drinks will be served in this area.

Member Esposito asked if an outdoor area shown on the applicant's sketch will now be eliminated. Mr. Several advised that this area now will be closed in with the option of having windows that can be opened up. Mr. Several advised that television screens will be in this area.

Member Esposito asked how will the sounds coming from the restaurant impact the residences. Mr. Holden advised that residents at their Willow Grove restaurant are at the same distance as the applicant's site, and there have been no complaints in Willow Grove.

Chairman Frangiosa commented that many restaurants referenced by the applicant are in a business district, and they do not abut residences. Chairman Frangiosa also noted that those restaurants do not have the hours that are requested by the applicant. Mr. Savona advised that a special exception was previously granted in the Limited Commercial District for the restaurant use.

Ms. Kearney asked if entertainment is being requested by the applicant. Mr. Savona advised that entertainment use is not being requested. Mr. Savona stated that capacity and hours of operation are being requested.

Ms. Kearney noted that an order in 1985 stipulated a change in the Sunday hours for the restaurant. Mr. Savona advised that he was not aware of this order. Mr. Savona stated that today the property sits in a much more developed area. Mr. Savona advised that to remain a viable restaurant it must have longer hours of operation.

Mr. Conroy advised that the applicant may need additional variances for parking, side yard setback, and signage down the road.

There was testimony from the audience against the applicant.

Mr. Neil Gross, 614 Launfall Road, was sworn-in to testify.

Mr. Gross advised that the Township Building used to be on the property in question. Mr. Gross stated that the building in question replaced the Township Building. Mr. Gross advised that the then owner, Marriott, assured the residents that the fence and lighting would always be maintained.

Mr. Gross advised that the residents were also told by Marriott that there would never be a bar inside of the restaurant. Mr. Gross stated that they were told that alcohol would only be served at the tables, and alcohol would not be served after 9:00 PM.

Mr. Gross advised that the original owner was a good neighbor. Mr. Gross stated that this owner kept their promises to the residents. Mr. Gross advised that the residents had no problems when the owner asked if the restaurant could be kept open until 10:00 PM.

Mr. Gross advised that the restaurant then changed ownership a few times. Mr. Gross stated that as the building was remodeled the back of the property became worse. Mr. Gross advised that the noise and the employees got worse. Mr. Gross stated that more and more bottles were being thrown over the fence, and onto the residential properties.

Mr. Gross advised that presently the restaurant is getting many more deliveries a week than the six that the applicant testified to. Mr. Gross stated that many promises concerning operations have not been kept, and the residents have been adversely affected.

Mr. Gross advised that he has lived in Plymouth Township since 1962. Mr. Gross stated that he has seen more and more business establishments come into the Township. Mr. Gross advised that now he is not happy with a proposal to have a sports bar adjacent to his home. Mr. Gross stated that he will hear the noise from the sports bar while he is trying to sleep.

Mr. Gross advised that the fence is in deplorable shape, and he has to call in order for the applicant's lawn to be cut. Mr. Gross stated that there are problems with the power lines and trees. Mr. Gross stated that he is opposed to the applicant, and requested that their application be denied.

Mr. Wilmer Sampson, 608 Launfall Road, was sworn-in to testify.

Mr. Sampson advised that he has lived on Launfall Road for 25 years. Mr. Sampson stated that he is opposed to any bar or restaurant being allowed at what is now the Houlihan's location.

Mr. Sampson advised that for the last 8 or 9 years he has been disturbed at 3:30 AM or 4:00 AM by loud thumping noises coming from the area of the restaurant. Mr. Sampson stated that it seems like a truck is unloading at the restaurant site, and this has been occurring about three nights a week.

Mr. Sampson advised that if the bar/restaurant is allowed to be opened until 2:00 AM noisy customers will come out and awake the residents. Mr. Sampson stated that he is also concerned that the smoke patio will be located on the side of the residential properties. Mr. Sampson advised that there is also the problem of trash not getting into the dumpsters as much trash ends up on the residential properties, and it also goes into the stream.

Mr. Sampson advised that the residents can hear what is going on at the applicant's property. Mr. Sampson stated that he can not understand how the restaurant can be called family oriented when it is proposed to be open until 2:00 AM. Mr. Sampson advised that the residents will be adversely affected by this late hour. Mr. Sampson requested that the

Zoning Board deny the applicant's request.

Member Esposito suggested to Mr. Sampson to call the police when you hear thumping noises in the middle of the night.

Mr. Saumen Kundu, 610 Launfall Road, was sworn-in to testify.

Mr. Kundu advised that he agrees with the complaints made by Mr. Gross and Mr. Sampson. Mr. Kundu stated that residents have trouble sleeping at night because quite often big commotions happen at the restaurant site. Mr. Kundu advised that the thumping sounds do occur.

Mr. Kundu advised that environmental issues at the applicant's property have not been addressed. Mr. Kundu stated that sounds continually go over to the residential properties. Mr. Kundu advised that the fence is in a horrible condition. Mr. Kundu stated that a burglary recently occurred at a residence, and this probably happened because a person can get through this fence.

Mr. Frank Buschetti, 616 Launfall Road, was sworn-in to testify.

Mr. Buschetti advised that his property is directly behind the applicant's parking lot. Mr. Buschetti stated that the current restaurant owner has not been able to control the noise that goes from the restaurant to the residential properties. Mr. Buschetti advised that much debris from the restaurant finds its way to the residential properties.

Mr. Joseph Gale, Jr, 628 Launfall Road, was sworn-in to testify.

Mr. Gale advised that he is opposed to the restaurant being opened until 2:00 AM. Mr. Gale stated that neighbors have been upset for years with noises coming from the restaurant and other business establishments adjacent to the residential neighborhood. Mr. Gale requested that the restrictions on hours of operation be continued.

Mr. Savona advised that the concerns of the residential neighbors can be remedied. Mr. Savona stated that these problems can be fixed with the redevelopment for the property. Mr. Savona advised that revenue is needed for this redevelopment. Mr. Savona stated that extended hours are needed for this additional revenue to come in. Mr. Savona advised that the applicant will make improvements to the property so that the residents will no longer be adversely affected, and the additional revenue is needed to make these improvements.

Member Esposito stated that maybe a restaurant is not the best use for the site. Mr. Conroy advised that other uses would be allowed for the site. Mr. Several stated that the restaurant's revenue can fix up the site, and address the concerns of the neighbors.

Mr. Joseph Gale, Sr. was sworn-in to testify.

Mr. Gale advised that he is concerned with people already liquored up at the Mall, and then

they come to the restaurant in question between a late hour and 2:00 AM. Mr. Gale stated that these people can cause disturbances that will affect the adjacent residences.

Mr. Several advised that for a food establishment to be successful alcohol must be served with the food. Mr. Several stated that improvements to meet the concerns of the residents cost money, and much revenue must be generated from the restaurant.

The Board discussed and decided as follows:

601 GERMANTOWN PLAZA, I.P.,C/O JAY R. SEVERAL: Member Esposito made a motion that the application be denied. Member Sassi seconded the motion. Members Esposito, Sassi, Saring, Mattioni, and Frangiosa voted in favor of the motion. The motion passed by the vote of 5-0.

The meeting was adjourned at 9:35 PM.

Respectfully Submitted,


Richard Clifford