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VOORHEES TOWNSHIP PLANNING BOARD MINUTES JULY 22, 2020\_

Chairman, Mr. Schwenke called the meeting to order and stated that the meeting was being held in compliance with the “Open Public Meetings Act” and had been duly noticed and published as required by law.

ROLL CALL

Present: Mr. Schwenke, Mr. Ravitz, Mr. Rashatwar, Mr. DiNatale, Mr. Nicini, Mr. Kleiman,

 Mr. Kleinman, Mr. Brocco, Mr. Schallenhammer

Absent: Mr. Stein, Mr. Brzozowski

Also present were Mr. Chris Norman, Board Solicitor and Mr. Rakesh Darji, Board Engineer

MEMORIALIZATION OF RESOLUTIONS

APPROVAL OF MINUTES

NEW BUSINESS

LIDL US OPERATIONS, LLC

CORRESPONDENCE – REQUEST EXTENSION OF PREVIOUS SUBDIVISION APPROVAL

ROUTE 73 & LAFAYETTE AVENUE

BLOCK 272; LOTS 4 & 5

PC #20-006

Appearing before the Board is the applicant’s attorney Ms. Laura D’Allessandro.

Ms. D’Allessandro states the applicant had received Minor Subdivision approval to subdivide Block 272, Lot 4 into two Lots 4 and 5 for the property located at Route 73 and Lafayette Avenue. They received this approval along with Major Site Plan approval to construct a LIDL supermarket. Ms. D’Allessandro states LIDL has not perfected its minor subdivision approval within 190 days as required due to pending and ongoing litigation.

The Planning Board considered LIDL’s April 21, 2020 letter request for an extension and grants the approval.

Mr. Nicini makes a motion to grant approval of an extension for the applicant to perfect its Minor Subdivision approval with the following conditions/stipulations:

1. LIDL’s Minor Subdivision approval remains tolled during the time period of the pending litigation challenging its site plan and subdivision approvals and, once concluded if the validity of LIDL’s development approvals are affirmed by the Appellate Division on appeal, LIDL shall have 190 days to perfect its minor Subdivision approval from the date of affirmance

 by the Appellate Division.

Seconded by Mr. Rashatwar. Motion carries by the following roll call vote:

AYES: Mr. Nicini, Mr. Rashatwar, Mr. DiNatale, Mr. Kleiman, Mr. Kleinman, Mr. Brocco,

Mr. Schallenhammer, Mr. Schwenke

NAYS: None

ABSTAIN: Mr. Ravitz

AFFINITY HEALTHCARE GROUP VOORHEES, LLC

CHANGE OF USE – MEDICAL PRACTICE PROVIDING OUTPATIENT BEHAVIORAL HEALTH OPIIOD TREATMENT SERVICES

200 WEST SOMERDALE ROAD

BLOCK 44; LOT 5

PC #20-003

Mr. Norman informs the public that this is a quasi- judicial matter and that the board will consider and weigh all the evidence presented by the applicant. First, the applicant will present their application with their experts. The Board will then ask questions and also listen to the comments and reports from the Board professionals and then the matter will be opened up to the public for public comment. Mr. Norman states he does not anticipate the board will not act on the application at tonight’s meeting for two reasons. One the application will possibly take at least two meetings at a minimum just because the amount of participation from the public secondly we received 21 exhibits that were delivered to the Township yesterday and out of fairness to the Board members and the public they should have adequate time to review those exhibits since they will become part of the record and before any final vote I made on the application.

Appearing before the Board representing the applicant was the Mr. Samuel Reale, attorney, Dr. Kenneth Brown, Affinity, Dr, Gregory Hobelmann, Dr. David Edwards, Affinity, Mr. Dan Shropshire, traffic engineer, Mr. Rob Martin and Mr. Tim Stevens, Mid-America. All the above are sworn in by Mr. Norman.

Mr. Reale states that the application before the Board is for a Change of Use in a non-residential zone under 156.018 of the Township Ordinance. Mr. Reale then states he feels it is not necessary for the application to even go before the Board for the following reasons. He states that in 2018, Mid America, the owner of the property located at 200 W. Somerdale Road, submitted a Zoning Permit application for Dr. Brown for a medical office, Affinity provided a copy of their Scope of Services (exhibit 1). On March 28, 2018 the Zoning Permit was issued to Dr. Brown for the purposes of a professional office providing behavioral health services on an outpatient level (exhibit 2). Mr. Reale states that permit remains active. Mr. Reale states that Dr. Brown and his staff can in fact treat any persons suffering from any form of addiction including those suffering from opioid addiction. And in that capacity provide any medically assisted treatment to those individuals.

Mr. Reale informs the board that in October or November of 2019 the Department of Health which regulates OPP’s, Opioid Treatment Programs, requested Affinity have the previously issued Zoning Permit amended to state Opioid Treatment Center. Since that time the permit application was denied and the Department of Health also changed it’s mind an dno longer required that change to the language on the permit. He states that now Mr. Norman, Mr. Stuart Platt, Ms. Bradley and Mr. Darji have now raised the issue that they do not believe Affinity is a medical use.

Mr. DiNatale asks Mr. Norman if in fact the applicant is being heard before the correct Board. Mr. Norman states they are before the right board but they also have site plan issues to deal with. In 1984 the original site was approved with 61 parking spaces and currently the site has somewhere between 79 and 82 parking spaces which had never been approved. Mr. Norman states there is also the issue if the site has adequate parking for the proposed use.

Mr. Ravitz asks Mr. Reale that if the applicant feels it has the right to open tomorrow then why submit the permit application to begin with. Mr. Reale states that in order for the practice to receive a license to treat patients with Methadone they must obtain a Zoning Permit. Mr. Norman states that they are before the board for Ordinance interpretation for permitted uses in the O1 Zoning District and what use activities are involved and if they are compliant with the ordinance. Mr. Norman states that information was never submitted as previously requested. Mr. Reale states the applicant has submitted this information numerous times.

Mr. DiNatale states that due to the late submission of the exhibit binder he had not enough time to review all the documents. Mr. Norman states that a vote would not be taking place that evening.

Mr. Schwenke states the Board would like to have the time to review the binder.

Mr. Reale states it is typical that exhibits are usually presented the night of the meeting. Mr. Ravitz responds that the binder is very extensive and also not fair to the public who cannot review.

Mr. Norman states that due to the fact the public cannot access to the Township Building to review the documents the applicant should have provided the exhibits ten days prior to the meeting to the Board secretary so she could have posted them on the website for public access therefore that is why a vote will not be taken this evening.

Mr. Schallenhammer would like to make a motion to postpone the meeting at least two weeks out in order to review the binder. Mr. Norman asks Mr. Reale if he would consent to an extension of time for the Board to take action on the application assuming a continuance of two weeks? Mr. Reale states that he would consent to an extension of time in relation to the MLUL but as it relates to continuing this hearing and not taking any testimony he is not in the position to do so.

Mr. Ronald Martin states that the binder is a substitution for a power point presentation. He states he would be in agreement if the Board decides to postpone this hearing for two weeks.

Mr. Reale states that he has requested numerous times that Ms. Flite provide copies of emails that have been sent to her from the community and that have been reviewed by Mr. Stuart Platt their request has been denied. Mr. Reale asks that Mr. Norman direct Ms. Flite to release those emails. Mr. Norman states that those letters/emails cannot be released unless they are read into the record by the person who wrote them during the public meeting. Mr. Reale states that according the MLUL the applicant should be provided those emails in advance to the meeting. Mr. Norman agrees to release those emails with the names and personal information be redacted in order to give the applicant to cross examine that resident.

Mr. Nicini seconds the motion to postpone the meeting for two weeks. Mr. Schwenke suggests that the applicant’s professionals provide their testimony during this evenings meeting. Mr. Reale informs the Board that Dr. Hobellman has had to leave the meeting therefore cannot provide his testimony.

Mr. Martin requests that the environmental/engineering portion of the hearing be heard tonight and then clinical/medical aspects of the testimony be heard at the following meetings.

Mr. Schallenhammer and Mr. Nicini withdrawal their motion.

Mr. Darji explains that the Township Ordinance requires Board approval for a changes of use that are not exactly the same or extremely similar to previously existing use and that is why this particular application is before the Board. He states that when it came to the differences in operational use for this application it was apparent it would need to appear before the Board.

Mr. Stevens testifies he has reviewed Mr. Darji’s letter dated March 6, 2020. In response to the general comments on page 2 Mr. Stevens states that the initial purchase of the property by Mid-America took place on July 31, 1984 and they received site plan approval on September 12, 1984. He testifies that the original site plan was approved with 67 parking spaces. Mr. Stevens testifies that due to the original construction of the sub-base of the asphalt parking lot, the asphalt has failed numerous times and has cost tens of thousands of dollars to repair. He states that when the parking lot has been resurfaced and repaired a company is hired to restripe the parking lot and that company painted as many parking spots as they could without referring to the original site plan. Mr. Stevens testifies there are six tenants in the building, 62 spaces are allocated to the tenants with 8 unallocated spaces, he was unable to provide the number of handicapped spaces and gives a breakdown of spaces per tenant as follows:

JD Sounds - 7 spaces

Siricom (1600 sq ft) - 7 spaces

Fidelity Ventures (1350 sq ft)- 5 spaces

AB Business Systems (2280 sq ft) – 8 spaces

Eagle Medical (2200 sq ft)– 5 spaces

Affinity Healthcare (6790 sq ft)– 22 spaces

Mr. Stevens provides testimony in response to comments in Mr. Darji’s review letter regarding street vacating. He states 3rd Street was vacated on February 23, 1985 and Atlantic Avenue was vacated on April 14, 1986. Mr. Stevens testifies the applicant is not proposing any exterior, drainage or circulation changes to the building. The only change would be signage on the directory for Affinity Healthcare and vinyl signage on the door.

Mr. Darji states there are only 3 handicapped spaces on the site currently and that 4 ADA spaces are required. Mr. Stevens states the applicant has requested a Waiver of Site Plan which would have avoided the site issues being discussed. Mr. Darji states the Planning Board cannot waive the requirement for the number ADA parking spaces. He also states the reason for the review of parking and circulation is due to the Change in Use and whether that will affect what is existing.

Mr. Stevens testifies he feels that there is a fundamental difference in opinion as it relates to use and that the previous Zoning Permit which was issued on March 22, 2018 by Elaine Powell and states “Behavioral Health Services on an Outpatient Basis” and it does not mention the types of medicines the doctor will be dispensing. He states there should be no distinguishing between patients or the type of medicine.

Mr. Schwenke states that the Board professional during his review found a discrepancy with what was previously approved versus what is existing on the site now. He states the Board is not there to judge what is administered by the doctors or who it is administered to. He states it was determined that there was a substantial difference in the use. Mr. Darji states the Board will determine if the proposed operations of the facility are compatible with the site.

Mr. Darji states that according to the Township Ordinance the required number of parking spaces required for the facility is between 64-72 spaces for the site. He states the parking had clearly been modified since it’s original approvals were given. He states along with Mr. Norman that the Board may have to consider whether or not to approve or deny for the waiver of site plan when deliberating. Mr. Darji states the applicant’s professionals would need to provide testimony on the operations of the facility such as hours of operations, how do patients get to the site, is there a que at any point and time outside the building. Mr. Darji asks the applicant to provide information regarding the lot consolidation.

Mr. Reale states he has no additional testimony for this evening.

Mr. Norman states the applicant should have all its testimony completed before the meeting is opened to the public. Mr. Reale agrees.

Mr. Reale agrees to continue and be heard at the August 26, 2020 Planning Board meeting and no further notice will be given.

There being no further business before the Board, the Chairman adjourned the meeting.

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 Wendy Flite

Planning Board Secretary

Voorhees Township

Minutes prepared by Wendy Flite. The minutes are intended to reflect the basic comments and action. Verbatim transcripts of all electronic recordings can be available upon proper request and payment.