

**CITY OF EGG HARBOR
MUNICIPAL LAND USE BOARD
April 16, 2019
7:00 P.M.**

A regular meeting of the Egg Harbor City Municipal Land Use Board was held on April 16, 2019. Those in attendance were City Council President Robert Ross, The Mayors Representative Marie Johns, Egg Harbor City Fire Department Representative John Garth, Chairman Jack Peterson, Vice Chairman Todd Warker, Regular Members; Dennis McKenna, Gladys Torres, Alternate #1 Andrew Dixon, Solicitor Leo Manos Esquire, City Planner Tim Michel, City Engineer Ryan McGowan and Secretary Donna Heffley. (Not Present were Mayor Jiampetti, Regular Members Michael McKenna, Keith Mullineaux and Alternate #2 Mason Wright).

Mr. 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 absent, Mr. Ross present, Mr. Garth present, Chairman Peterson present, Vice Chairman Warker present, Dennis McKenna present, Mrs. Torres present, Mr. Michael McKenna absent, Mrs. Johns present, Mr. Mullineaux absent, Mr. Dixon present, Mr. Wright absent, Mr. Manos present, Mr. Michel present, Mr. McGowan present and Secretary Donna Heffley present.

Approval of Minutes: January 15, 2019

Upon motion made by Mr. Warker, seconded by Mrs. Torres and carried the January 15, 2019 Land Use Board Minutes were approved.

Approval of Resolutions: None

Oath of Member: Mason Wright was not present to be sworn in.

Mr. Peterson announced a change in the order of business. Item number nine on the agenda, Highway Petroleum would be heard first this evening.

New Business: Highway Petroleum, Inc.
Block 715, Lots 28 and 26
1451 White Horse Pike
Egg Harbor City, NJ 08215
Request for Extension

David DeClement, Esquire was present and represents Highway Petroleum, Inc. Also present was Parminder Singh and Brian Peterman Project Engineer who Mr. Manos swore in.

Old Business: Mr. Peterman gave a brief overview of the application for 1451 White Horse Pike. About 3 years ago they were before this board for preliminary and final major site plan with certain conditions. Resolution 1 of 2016, dated April 19, 2016. This is the existing Sunoco gas station at 1451 White Horse Pike with a very small store, gas island and old car wash behind it. The Applicant is looking to renovate the site; put a larger building in the back, get rid of the carwash, improve the gas islands updating them to look like gas convenience today. The applicants Engineer will have to address landscaping, storm water, lighting and all improvements to the site.

Mr. Peterman said they are here tonight to request an extension to this approval. The approval was granted with preliminary and final. With this approval the Applicant has a length of two years with three discretionary one-year extensions. They are asking for a retroactive one-year extension which will get them to April 19, 2019 which will only give them a three-day extension, they still need more time so will ask for the second one-year term which will take them to April 19, 2020. That will give them the available time to be able to work on the conditions of approval. They still need final sign off from Pinelands, sign off from DOT and from the City for local approval. All of these approvals are needed in order to move forward with the project.

David DeClement, Esq. noted throughout the company they have rebranded everything Sunoco.

Mr. Michel noted the only concern that would arise from a planning point of view would be if zoning changed. Zoning has not changed and Mr. Michel sees no problem with the Board granting the extension.

Mr. Manos noted that this request for an extension protects the applicant from a zoning change. They are allowed three one-year extensions.

Mr. Manos asked for a motion to grant an extension from April 19, 2018 and grant two one-year extensions which would bring the Applicant to April 19, 2020.

A motion was made by Vice Chairman Warker, seconded by Dennis McKenna

Roll Call: Mr. Ross yes, Chairman Peterson yes, Vice Chairman Warker yes, Mr. Garth yes, Mrs. Johns yes, Dennis McKenna yes, Mrs. Torres yes, Mr. Dixon yes.

New Business: #2019-02LUB

Theatre Park Productions
C/O George Egrie
1602-48 White Horse Pike
Egg Harbor City, NJ 08215
Block G52, Lot 122

Amendment of Site Plan Approval and any and all variances, waivers or exceptions that may be required.

Mr. Michel gave an over view of several approvals that were given for 1602-48 White Horse Pike beginning in 1998 to allow for Earls Girls and another business described as light fabrication which is a light industrial type use. However, part of that approval was vacated by their application in 2015. Kertz Auto Body Restoration came before this board to ask for a conditional use approval to allow for 16,000 square feet of that building to be used for auto body restoration, which is a permitted use subject to condition use standards. The total classification of the property for light industrial use was vacated at

that time. An approval was also granted by the Board for a laundry storage facility that was occupying a part of the building.

There was a condition in that approval that said if there were any additional tenants added to the building they would have to come back before the Land Use Board with an application for approval.

That approval changed in 2017 when the applicant was seeking approval to allow a pool manufacturing facility in the building prior to the board making a decision. The applicant withdrew this request.

There is also a condition in the 2017 approval that says specifically that additional tenants must be consistent with permitted uses in the Highway Commercial Zone. The HC zone is what is there covering the property today. Mr. Michel stated in his analysis the only permitted use in that building today is Kertz Auto Body Restoration that is a use that is consistent with HC highway commercial use. Earl Girls was approved by resolution in 1998. No other uses are permitted to be in that building today because the 2017 approval says they have to be Highway Commercial Uses.

In December of 2018 Mr. Michel received a request from Serge Polajenko of Hammonton who represents a company called Blast Liquidations, LLC. Mr. Polajenko is requesting warehousing, dry dead storage. Mr. Michel reviewed this request and found that the only place you can have warehousing or storage would be in the industrial zones in Egg Harbor City. Blast Liquidators would be considered a non-conforming use, the only way this use could be considered is if the Applicant comes before the Land Use Board and asks for permission to expand a non-conforming use on the property.

Mr. Manos noted if this becomes a use variance application the Mayor, Mayors Representative and City Council Member should not participate in the application.

John Scott Abbott, Attorney who is representing Mr. Egrie was present along with Mr. Egrie, Mrs. Egrie, Bill Swiderski, and Serge Polajenko. Mr. Abbott wanted to review the circumstances before deciding if a use variance is appropriate for the applicant. Mr. Abbott noted he does not agree with Mr. Michel. Mr. Abbott went through the approvals over the years. He stated that Mr. Polajenko wants to only store furniture at this property when he liquidates, his retail store is in Hammonton. Mr. Abbott also stated that Mr. Polajenko is not the fourth tenant. Earls Girls, and Kertz are on the property and Mr. Polajenko will be the third tenant.

Mr. Abbott noted Mr. Egrie has done many improvements on the property.

Mr. Egrie was sworn in by Mr. Manos. Mr. Egrie gave a description of the property he purchased many years ago. He originally purchased the property from the City. The property was deplorable when he purchased it. Mr. Egrie spent a lot of money to make improvements to the building. Mr. Egrie said as soon as the weather cooperates, they will finish painting the building. They have all of the paint on site to finish the project.

Mr. Abbott stated however the board wants to handle this, if the board wants a use variance then they will move forward.

Chairman Peterson noted in the resolution if unit one is vacant then the remainder of the site work would have to be completed before a new tenant occupies the space.

Mr. Abbot noted the linen business has moved out.

Mr. Manos read the resolutions and found in 2017 there were two Occupants, the laundry storage business was added and then a potential fourth occupant which was the pool manufacturer. The Pool manufacturer withdrew and the Laundry Occupant moved out. Now Blast wants to come in and take up 2 units. He would be the third tenant but using the third and fourth space. Mr. Manos and Mr. Michel agrees a use variance is what the applicant should be seeking if they want to ask to have an industrial use in the zone. Blast Liquidators is clearly storage and is not permitted in the highway commercial zone. This would be an expansion of a non-conforming use.

Discussion continued between Professionals, Board Members and Mr. Abbott.

Mr. Michel reviewed the industrial uses which list a fully enclosed warehouse and that is what the applicant wants to use the building for storage. Storage and warehousing are the same thing under industrial business park section 170-79. B. (1) (b).

Mr. Polajenko was sworn in by Mr. Manos. Mr. Polajenko suggested if the use was changed to a wholesale/retail store where people could come to purchase items would it be permissible and keep them in compliance so they would not have to go for a use variance.

Mr. McGowan stated it would be a permitted use but it would trigger numerous other requirements for site access. This would open up many other issues and would require a new application and a new review by Professionals.

The Mr. Swiderski discussed the parking requirements if they went the retail store option. Professionals and members discussed the parking.

Board Members discussed how the previous conditions have not been totally completed.

Mr. Swiderski noted Mr. Egrie has done a majority of items that were conditions of the approval. He has painted the portion of the building along the White Horse Pike, he installed slating in the fence along the White Horse Pike, he removed debris from the fenced in area, he replaced the two overhead doors that were in terrible condition, he has maintained the site. In good faith he has done a majority of the items that were conditions of his approval.

Mr. Garth expressed his concerns on this matter. Mr. Garth said the Owner does not follow proper procedures for moving in new Tenants. And this has happened more than once.

Chairman Peterson noted the Applicant moved into the building without obtaining proper approvals and a mercantile license from the City.

Mr. Warker stated that this has happened time and time again without tenants getting the proper approvals first before occupying the building.

Mr. Michel referenced a letter that he received from Donna Heffley dated December 18, 2018 from Blast Liquidators, Inc. This letter from Serge Polajenko stated he leased a portion of the building at 1602 White Horse Pike solely for warehousing dry dead storage.

Mr. Michel sent a response stating the use is not permitted in a Highway Commercial Zone. Warehousing and storage are only allowed in industrial zones in Egg Harbor City. If Blast wants approval for the use, they must apply for a use variance from the Land Use Board. If a use variance is granted, they still must apply for a zoning permit, mercantile license and acquire any construction permits BEFORE they occupy any portion of the building or property. The business is incorporated and must be represented by a NJ licensed attorney.

Chairman Peterson asked if the letter was forwarded to the Applicant.

*Please note this response was forwarded to John Scott Abbott on December 26, 2018 at 3:03 PM and Tim Michel, Ryan McGowan and Duncan Prime were Cc. Mr. Egrie was given a copy of the letter along with a Land Use Board Application.

Mr. Michel noted they should submit another application if they would like to change what they would like to do at the property.

Mr. Manos discussed their options whether they move forward with the warehouse and a use variance or if they would like to pursue a retail store which would require them going back to the drawing board.

The Applicant and his Attorney asked for a five-minute recess.

Mr. Abbott and the Applicant returned to the court room.

Mr. Abbott stated that they are going to withdraw their application tonight and they will discuss their options, make a decision and return to the board.

Mr. Peterson expressed his concerns on this matter and stressed the importance of Tenants and Landlords following regulations that have been put in place by the City.

Mr. Manos noted when the Applicant returns, they will have to notice again.

Mr. Abbott will be in touch with Mr. Michel when they decide how they will proceed and schedule for an upcoming meeting with the Board. They are going to try to have the painting completed along with remaining items.

Council Report: Mr. Ross discussed a possible ordinance addressing businesses (store fronts) that are empty and not for sale or rent. They are being left sitting vacant and becoming an eye sore for the town. Other towns have adopted ordinances addressing empty businesses. It is in the taxpayer's best interest for these stores to be occupied and not left vacant. This ordinance would require store fronts to be up for sale or listed with a realtor for rent and a yearly fee will be required each year the business space remains vacant. Pleasantville has had success with this ordinance.

The Budget was not voted on yet. Another budget workshop will be held in the upcoming week.

Questions and Comments from the Board

Board Members discussed the Egrie Property.

Mr. Garth expressed his concerns about the Egrie Application and had questions pertaining to the occupancy of the fourth tenant and needed clarification.

If the applicant wants to use two spaces for one tenant would that count as the third and fourth tenant? Board Members discussed this matter.

Public Comments: none

Adjournment: Upon motion made by Mr. McKenna seconded by Mr. Garth and carried the meeting was adjourned.

Respectfully Submitted

Donna Heffley, Land Use Board Secretary