

**Borough of Peapack & Gladstone
Land Use Board**

July 1, 2020

Opening Statement: Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Courier News on January 16, 2020 and was posted at the Municipal Complex, 1 School Street, Peapack; The Peapack Post Office, 155 Main Street, Peapack; and the Gladstone Post Office, 266 Main Street, Gladstone, New Jersey on January 16, 2020. Notice was placed on the website directing people on how to connect to the virtual hearing.

Meeting started at 7:00

Salute to the Flag

Roll Call:

Present:

Susan Rubright

Joan Dill

Chris Downing

Judy Silacci

David DiSabato

Peter Sorge

Matte Sutte, Alternate # 2

Robert Riedel, Alternate # 3

Paul Norbury, Alternate # 4

Absent:

Mayor Greg Skinner, Mayor

Mark Corigliano, Councilman

Kingsley Hill

James Heck, Alternate #1

Also Present:

Roger Thomas, Esq. Board attorney

Sarah Jane Noll, Clerk/Administrator

John Szabo, Borough Planner

William Ryden, Borough Engineer

Minutes: February 19, 2020 – The minutes of the February 19th meeting were approved by motion by Judy Silacci and seconded by Joan Dill.

Roger Thomas asked that all the members of the Board and the public and the board to please mute themselves during the course of the hearing. All members of the Board and public will have an opportunity to question the witness and then make comments and participate. He asked several times for callers to please mute themselves.

Public Hearing: # 2019-007- Musso Associates, LLC -Application for variance to allow mixed use of residential and office. A report was submitted by W. Ryden, P.E. The application was deemed complete on February 19, 2020. An extension of the tolling time has been granted to July 16, 2020. This hearing has been continued from February 19, 2020.

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Mr. Mauro introduced himself. Mr. Thomas again asked callers to mute themselves. The last exhibit at the February 19th meeting was **A-3**.

The following exhibits were entered into evidence at this time:

Exhibit A-4 - 200701 - Musso Associates Variance Hearing – Power Point Presentation updated from February 19, 2020 – hearing date July 1, 2020.

Exhibit A-5 - Central_NewJersey_Americas_Marketbeat_Office Q12020 (primer on Somerset County commercial real estate prepared by Cushman Wakefield

Exhibit A-6 – June 16, 2020 - Cushman Wakefield 7 Mile Radius Vacancy Rates (analysis of vacancies in commercial buildings in a 7-mile radius of here that Cushman Wakefield put together

Exhibit A-7 – updated Copy of the Variance plan revised through 6-29-20.

Exhibit A-8 -Updated Env. Impact Statement dated 5-16-20

Exhibit A-10 -Shore Point engineering – Stormwater

Exhibit A-11 - 2005-14 lighting plan as 200514

Mr. Mauro then advised the board of the following witnesses for tonight’s hearing:

- Donald Musso
- Kevin Shelly
- Richard Preiss

Mr. Musso was advised that he is still sworn in from the February 19, 2020 meeting. He recapped starting with page 3 of the Power Point Presentation in exhibit A-4. The original application was bi-furcated. There was a public hearing on 3-20-19 and a site visit on 3-25 and 3-26 of 2019. The town approached him about providing affordable housing. They produced a concept drawing in September 2019 and since that time have not heard back from anyone from the governing body of Peapack and Gladstone. They decided to go back to the variance application and amended it to include preliminary and final site plan and 3 variances. Page 6 of the presentation contained information between Boswell Engineering and the NJ DEP regarding an alternative remedy to allow for residential use on the property. Applicant’s attorney John Mauro had sent corrections to the February minutes to the Board Secretary Sarah Jane Noll. They do want to stay in Peapack and Gladstone. They are proposing four groupings of residential units. The first group is on the 2nd and 3rd floor to be built out. Group 2 includes a two-story addition. Three floors are visible from Rt. 206. There will be an additional 7 units on 1st floor. Within 24-36 months they propose to build out all 4 groups. Musso Assoc. owns the building and they are the largest shareholder in FinPro Inc. Page 10 shows the number of 1, 2 & 3 units in the proposed 23 units and there is no market rate 3 bedrooms. They propose 1- 3 BR unit. Page 11 addresses the architectural renderings dated June 1, 2020. There will be an increase from the present 38,919 s.f. gross area to a proposed 45,469 s.f. FinPro is just using under 2,000 s.f. of the space. Page 12 of the presentation showed the gym and page 13 shows the commercial kitchen. This is in the common space. FinPro has its own kitchen on the first level. The hall area can accommodate 100 people as shown on page 14. The use is currently for mini

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conferences and would be for the use of all the tenants for any type of social gathering. Page 15 shows the outdoor patio. This is common space for the use of all of the tenants. They are currently renovating the media room. Page 16 was an aerial showing a yellow line which is the walking path easement which they want to give back to the town. Page 17 is the walking plan for Peapack and Gladstone. The red lines show the walking path easement. Page 18 explains the commercial lease prospects. Page 20 shows that there is currently 40.4% total vacancy in the building. Page 21, 22, 23 and 24 show photos of the vacant buildings in the area. They are applying for a D (1) –use variance D (6) – Height Variance and C Variances.

This concluded the testimony of Don Musso. There were questions from the board of the witness.

Chris Downing asked about the suitability for residential multifamily and questioned the number of windows for these apartments. The answer was yes and advised that the architectural drawings show the windows. Mr. Downing asked about the windows for the 3rd floor where there looks like no windows but rather skylights. Mr. Musso advised that each bedroom will have a window. There are dormers in each of the bedrooms which are currently there. Mr. Downing questioned if there was going to be a playground. The answer was no that they were led to believe that the Land Use Board does not want to entice families with children. Mr. Musso answered that if the Board wants this, they will provide it.

Public Portion– was opened and closed to the public since no one in the public wished to question the witness.

Mr. John Mauro was the next witness. He advised that he is not an architect but has substantial real estate knowledge of 25 years and experience. There was testimony from the architect at the February 19, 2020 hearing. Mr. Mauro proceeded to show the building from Route 206, then the rear and side. The grayed hatched area does not currently exist. If they remove the dirt at the rear, it showed 4 levels exposed. The height of the existing structure is 48.25' and is an existing non conformity – proposed will be 50.76'. He then reviewed the floor plan: The 3rd floor will have 2 affordable units; 1-1 bedroom and 1 -2 bedroom. There are skylights in the hallways. The ingress and egress meet code. There is a central elevator that all have access to. The proposed addition is the same as the 2nd floor and consists of 4 – 2-bedroom units. He then showed the second-floor plan which has the same addition. The front view is 2 – 2 bedroom and 3 – 1 bedroom. They will provide for common washer/dryer for the units. First floor: shown as residential: 2 bedroom and 1 bedroom off to right and left. Addition would include 2- 2 bedroom. The addition would be 1 -1 bedroom and 1-2 bedroom with an office; freight elevator becomes part of the apartment in the rear. The alternate scenario. Fully underground area would include storage units; the alternate is commercial as it is right now with office space; common bathroom; open space.

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Questions of the witness: Chris Downing questioned if there is a common bathroom on the ground floor which services the gym and common area. That was affirmed and they have the ability to provide another in the rear area.

Peter Sorge asked them to explain how the unit count was determined. The answer was that they went with what could fit. There were more 3-bedroom units at the February hearing.

Public – The public portion was opened and closed since no one from the public wished to ask questions.

Kevin Shelly, Architect was reminded that he is still under oath from the February meeting.

Peter Sorge asked about trash facilities. Mr. Shelly advised that the dumpster is to be located at the rear of the building where there is sufficient space.

Bill Ryden referred to his report of 2-22-20, item #6 which speaks to the RSIS. He is satisfied with what was submitted. A maintenance plan is required. #7 – Mr. Ryden asked if the restricted area is contaminated. John Mauro answered that by advising that the site remains to be deed restricted. The entire area is restricted. The only restriction is of childcare centers and like. The split rail fenced area is in the light restructured area. The fence must be shown on the plan. This should be made a condition of approval. They were asked to address the Somerset Co. recycling letter. The witness testified that there is a 28% net decrease in the traffic during peak trips when converted from office to residential. Mr. Ryden is satisfied with the revised lighting plan. They discussed the access to the Pfizer site which is to be used only for emergencies. There is a paved driveway only for pedestrian traffic. This was shown on page 16 of the presentation. It is not for vehicle use; John Szabo had no questions of this witness.

Peter Sorge asked about noise pollution from the highway which would affect the residents. It was explained that the building is setback quite a distance from the road. Mr. Shelly does not expect that noise will have any impact and will not be a nuisance. According to Mr. Mauro the building is solid masonry construction with a brick veneer and there is no noise issue.

Public – Since no one in the public wished to question the witness, the public portion was closed to the public

Upon questioning by Peter Sorge, Mr. Mauro described the right-side elevation and advised that if the dirt has to be removed; they would have to get DEP approval. Susan Rubright also advised that they would need Board approval after first getting DEP approval.

John Kappler, Chairman of the Environmental Commission advised that they are seeking sidewalks along Maple Ave. He wants to know how children will get to the train. Mr.

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Kappler was reassured by Mr. Mauro that the corporate headquarters of FinPro are not being relocated because they wish to stay in Peapack. He also stated that he does not think that parents would be allowing their children to walk to the center of Peapack from this location. There will be bussing for the High School and all schools. They did look into putting in sidewalks to Pottersville Road but were told that this is preserved land. Mr. Kappler had no other questions at this time.

Susan Rubright also questioned if this is a mixed-use application. Mr. Musso advised that it is a mixed use and if it were to change, they would have to reapply to the Land Use Board.

John Kappler then advised the Board that the land was purchased under Green Acres. It was determined that any possibility of getting a sidewalk along Route 206 is nil. Joan Dill advised that a sidewalk would not be conducive in this area; Judy Silacci concurred with this.

The Public portion was closed.

Richard Preiss, Planner from Hoboken, NJ was the next witness and he was reminded that he was still under oath from the February meeting. He reviewed the variances being sought and justified the approval of each variance.

D-1 use variance –zoning does not allow

D-6 Height Variance being sought for the proposed height of 50.76’

3 non conformities and since they are not being exacerbated, he does not feel that variances are needed:

1. Total area
2. Min. front yard
3. Buffer along residential

Mr. Preiss concluded his testimony.

The meeting was opened to questions of the witness by the board members.

Chris Downing asked if the fire department can access this building because of the height and should they have reviewed this. Safety and Compliance of this building for safety. Mr. Preiss then explained that the market for office space is currently weak and he believes that it will continue to drop. Mr. Musso addressed the fire related issue and assured the board that this would have been brought forward during the fire inspections which they are having right now. Everything needs to be fire coded.

In a text to the Chairwoman Rubright, the Clerk of the Board Sarah Jane Noll advised that the application had been sent to the Fire Chief in 2019. No response had been received.

Peter Sorge asked for clarification of the # of affordable units. Mr. Mauro explained that the architect had reviewed the plans and there is compliance with the requirements; 5 units would comply with the regulations. John Szabo then commented that they have met the requirements. Roger Thomas explained that the # represents slightly over 17%

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and the prior application was 20%. There is a change and they are seeking an amendment to that with less affordable units than originally proposed. They lost a 3-bedroom apartment which was affordable.

Peter Sorge then asked about the addition and why would the board allow the intensification of the variances. Mr. Preiss explained; he did say that the applicant would be willing to lower the height of the building but from a planning viewpoint, it will not have an impact. Mr. Sorge questioned the variance for the lot size and allowing it to be developed more would increase the need for a variance. Mr. Preiss explained that he feels that there is no need for this variance since the coverage is not being exacerbated. The zoning requires a 40-acre site but would also allow for a much greater density. Joan Dill questioned the small gable protrusion which would be the roof line of the addition and seen from Route 206.

Public portion was opened and closed to the public since no one had questions.

Public Comments was opened to the public.

John Kappler – Holland Ave. Chairman of the Environmental Commission commented that he knows of no restriction on paving the trail going thru the Green Acres. He wants testimony on where the applicant gets information that it is not permitted. He wants a safe path for the high school students that may occupy this site. Mr. Thomas addressed any rational nexus between this development and wanting the trail. The only beneficiary of a path is just this development which would require a proportionate share of the cost. Chairperson Susan Rubright then asked the applicant if they would be willing to contribute to the cost. Roger Thomas explained that generally speaking once Green Acres acquires property it is difficult to do improvements particularly impervious improvements. Mr. Preiss then responded with what he thinks the # of high school students would be. John Szabo inputted that they are not going to see students. He did advise that some improvements can be made on green acres property. Diversions are not permitted. They would look at it and say the preservation is for open space and not pedestrian access. It is the opinion of Mr. Thomas that to require the applicant to construct an entire trail system exceeds the authority of the Board. Mr. Kappler is concerned that the use is being changed and that Peapack should be a walkable community. He feels we are creating an island and that Green Acres should be for recreation. Chairperson Rubright suggested that the applicant's prorated share or contribution should be looked into. The Borough could make the inquiry and asked the applicant if they would contribute. Mr. Musso said it is a hard question to answer and it is unreasonable to ask this. He suggested using the roadway up to the Komline house and they will maintain everything that is on FinPro's property. Mr. Musso will approach Pfizer on using a portion of their access. Mr. Kappler questioned if another building could be built on the site; Mr. Thomas answered no not without first going back to the Board. The Public portion was closed.

The board then listened to closing comments.

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Mr. Thomas addressed the need for the variances. He agrees that the 10-acre lot size in the ordinance was not intended for residential use and it is an intensification. This would be a hardship since there is no other property for the applicant to try to acquire. Mr. Szabo agreed with Mr. Thomas who advised the board that they still need to be cognizant of the variances.

John Szabo spoke to the change of the use which is a common place thing in the state right now. He felt that this site is particularly suited to this proposed use. Not every site is suited to be changed. It is not necessary to change this into all residential.

Mr. Thomas advised the board why a motion in the affirmative should be made and would be subject to the conditions that the board addressed during the hearing. Some of the conditions would be: 1) show the walking path on the map; 2) grant deed to the Borough for the path; 3) final approval from Somerset Planning Board; 4) conformance with rules and regulations of Affordable Housing; 5) fire department review and 6) all other municipal, county and State approvals.

Chris Downing reminded the board that the county did ask for access and this should still be a consideration. Chairperson Rubright asked Mr. Thomas to draft some kind of an agreement that the applicant is to maintain the path on their property and that the Borough take on the area winding through the woods and with Mr. Musso making a contribution.

Mr. Thomas will draft an agreement for the maintenance of the path from FinPro to the Komline property. It was pointed out that the Borough owns 50' in front of the Komline house to the woods line. Page 17 in the presentation shows a red dotted line that connects to the FinPro property from the rear of the Komline residence. The applicant agreed to maintain that portion. This will be included in the resolution. Mr. Ryden advised that there is green acre property between the rear of the Komline property and the FinPro property.

Judy Silacci moved to approve the application for the 2 – D variances and the 3 – c variances; the motion was amended to include preliminary and final site plan; Joan Dill seconded the motion which was approved unanimously by the following roll call vote:

AYES: Susan Rubright; Peter Sorge; David DiSabato; Chris Downing; Judy Silacci; Joan Dill and Matt Sutte.

NAYS: None

Adjourn – A motion to adjourn was made and seconded and the meeting was closed at 10:14 p.m.

Sarah Jane Noll
Administrator/Clerk