

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

April 7, 2021

Susan Rubright called the meeting to order at 7P.M. with the opening statement.

Opening Statement: Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Daily Courier News on December 28, 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 December 28, 2020. The meeting is a web-based platform providing remote access as the meeting will be open to the public remotely. In the event any member of the public cannot access the public file documents or exhibits, and/or cannot access the Zoom web-based virtual meeting room, they may contact the Board Secretary at snoll@peapackgladstone.org or 201-400-9043.

Salute to the Flag

Roll Call:

Present:

Susan Rubright
Greg Skinner, Mayor
Mark Corigliano, Councilman
Peter Sorge
David DiSabato
Kingsley Hill
Joan Dill
Chris Downing
Judy Silacci
Robert Riedel, Alternate # 2
Paul Norbury, Alternate # 3

Absent:

Craig Darwin, Alternate # 4
Matt Sutte, Alternate #1

Also Present:

Roger Thomas, Esq. Board attorney
William Ryden, Borough Engineer
John Szabo, Borough Planner
Sarah Jane Noll, Clerk/Administrator

Minutes: The minutes of March 17, 2021 were approved as corrected.

P-G Residential Developers, LLC, Block 33, Lots 11, 11.01 & 13

Roger advised of revised resolution.

Joan Dill moved to approve the resolution; Mark Corigliano seconded the motion which was passed unanimously by the following roll call vote:

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AYES: Susan Rubright; Mark Corigliano; Greg Skinner; David DiSabato; Kingsley Hill; Chris Downing; Judy Silacci; and Joan Dill

NAYS: None

Block 20, Lot 10 - Pharmacia & Upjohn Company LLC -100 Route 206

This resolution extends the preliminary and final site plan approval for one year. The resolution had been sent to the applicant's attorney, but nothing was heard back.

Joan Dill moved to adopt the resolution granting the extension; Susan Rubright seconded the motion which was passed unanimously by the following roll call vote:

AYES: Susan Rubright; David DiSabato; Chris Downing; Judy Silacci; Joan Dill; Kingsley Hill; Peter Sorge; Mark Corigliano and Robert Riedel

NAYS: None

Annual Report – Prepared by Board Attorney Roger Thomas – Roger

Thomas went over his report of the variances granted during the year and listed the applications that were approved during the year. It is his opinion that none of the ordinances need to be reviewed and there are no patterns that would warrant any change. Mr. Szabo concurred with Mr. Thomas in that there were no patterns.

Joan Dill moved to adopt the annual 2020 report; Mark Corigliano seconded the motion which was adopted by the following roll call vote:

AYES: Susan Rubright; David DiSabato; Chris Downing; Judy Silacci; Joan Dill; Kingsley Hill; Peter Sorge; Mark Corigliano; Greg Skinner

NAYS: None

Susan Rubright, Peter Sorge, Mayor Skinner and Councilman Mark Corigliano left the meeting. Susan Rubright and Peter Sorge both had conflicts and were unable to act on the application. Mayor Skinner and Councilman Mark Corigliano are not allowed to act on 'use' variance applications.

David DiSabato assumed the chairmanship of the LUB during the absence of Susan Rubright.

Public Hearing:

Application # 2020-002 – Block 23, Lot 3 – Red Horse Motoring Club of Peapack, LLC – 165 Main Street.

Roger Thomas summarized the hearing of 2-3-2021 at which time the waivers applied for by the applicant were granted for completeness and the application was subsequently deemed complete. Mr. Thomas advised that there is enough information on the record for the board to proceed and if, the board finds that the information is needed it will be required. The tolling time is May 14, 2021.

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Mr. Thomas briefly reviewed the testimony of Steven Everett and the one exhibit **A-1 – Signage plan** which was submitted.

Mr. Thomas advised that there are 5 members of the Board present which is a quorum and therefore the board can proceed however a vote will not be taken this evening. The Traffic Engineer's testimony is deferred to a later meeting and Mr. Hansen's testimony will not be heard until after that of the Traffic Engineer.

Sean Monaghan, Esq. attorney for the applicant introduced himself and advised that he represents Rob Francis and Red Horse Motoring Club.

Testifying at tonight's hearing will be Steven Reed, Esq. attorney involved in the acquisition of the liquor license; additional testimony by Mr. Rob Francis followed by Hillard Turner, Architect. John Harder of Atlantic Traffic has a conflict and is not in attendance at this hearing. That testimony will be presented at the next meeting of the LUB and then followed by John Hansen testifying about the planning issues and the variances applied for.

The record noted that Robert Reidel had arrived and is eligible to vote since he has not missed any of the application information or testimony and is not required to listen to any tapes.

Steven Reed, Norse, McLaughlin in Bridgewater was sworn in by Mr. Thomas. He was accepted as an expert witness and Specializes in liquor licenses and ABC law. 15 years in the liquor license practice. He is familiar with retail licenses and club licenses. Mr. Thomas accepted him as an expert in his field.

Mr. Reed testified that he represented the transfer of the license between Hagg Beverage LLC and Red Horse Motoring Club. It is his understanding that at least three of the owners of Red Horse are also owners of AGG LLC. It is not unusual for the holder of the liquor license to be two different entities. Borough Council approved the transfer of the liquor license on March 9, 2021. It is a Plenary Retail Consumption license to be conducted at 163 and 165 Main Street in Peapack. License can be used in providing alcoholic beverages at a private club. It does not require service of alcoholic beverages to the public. The license allows that the holder of the license can serve beverage to club members and guests or anyone who comes into the premises but there is no requirement, they just have the entitlement statute. It is at the discretion of Red Horse who they serve. To serve anywhere else, a special permit would have to be applied for.

There were no further questions of the witness.

Roger Thomas questioned the witness asking if they could serve him as a private resident but not a member. That is the discretion of the owners. The witness testified that there is no difference between a Club License or a Plenary License. A Club license enable the owner to serve food to members and guests.

Chris Downing questioned the witness. The Owners of Hagg Beverage LLC who are also members of Red Horse Motoring Club are Steve Everett, Dan Glennon

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and Wayne Harders. Mr. Downing questioned the licensed premise which is on a plan attached to the license and shows the licenses area that which is 5' from the property line and includes the area owned by Rob Francis.

Mr. Monaghan stated that the extent of the premises is all of 163 & 165 Main Street but it does not include the 5' from the property line onto the property. The sidewalk is not within the premises. Mr. Downing referred to the ABC Handbook and argued that the dealership is not part of the license and commercial activity is not allowed within the licensed property. He read from the Handbook. He had spoken with the Borough Council and they were not of the opinion that they granted a liquor license to allow people to have alcohol on the entire property. The witness was not aware of any limitation by the Council. David DiSabato advised that this Board does not have to defer to the Borough Council's intent or lack of intent with respect to the liquor license.

The Clerk/Secretary was advised that the Board Engineer Bill Ryden was having difficulty getting into the meeting.

7:40 p.m. William Ryden came into the meeting.

Mr. Reed advised that he had never asserted that the State Liquor License Law, or the Borough Council's action in connection with the liquor license imposed any limitations on the Land Use Board's authority with respect to their application. Chairman DiSabato thanked him for that comment. Chris Downing continued his questioning of the witness. There was discussion on Club Licenses. Mr. Downing questioned a statement in a local newspaper that said that the club would be open to the public for dinner one night per week. Mr. Reed did concur that the Club could do that.

David DiSabato questioned the 5' along the border of the property and if that 5' includes the front of the Rob Francis display area. It appears that there is more than 5' between the sidewalk toward the showroom of the dealership. Mr. Reed agreed to that. Mr. DiSabato asked about the proposed garden/patio area and if alcohol can be served there. Mr. Reed advised that the license allows for the service of alcoholic beverages there. Mr. Downing had no further questions.

Public Portion –

James Heck residing at 6 Pheasant Run was not clear about the commercial business activity can be within the walls of a liquor license. Mr. Reed read from the ABC laws and the activities that can take place. Mr. Thomas said that the intent of the liquor license is to serve alcohol but that is not the purpose of the car dealership. Mr. Reed explained that it is plenary license and can have some commercial activity and allowed to serve food and alcohol. Chris Downing read from the statutory law regarding the plenary license. Reference is ABC Handbook, definition of a Plenary License on page 26 of the handbook and is Statute 33:1-12. James Heck asked if the dealership space is rented by the club. There were no further questions by Mr. Heck.

Andrea Karanik, John Kappler's wife residing at Holland Ave. wanted confirmation that the garden/patio would be a public drinking area. Mr. Monaghan suggested

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that this be a question of Steven Everett. Roger Thomas suggested getting an ABC reading on this from Mr. Reed who testified that this would be permitted under the license issued. The license will allow the holder to sell to the public area within the licensed area. Judy Silacci asked if that would allow the sale during the day when it would be open to the public. Mr. Thomas explained the article in the newspaper suggesting that it would be opened to the public.

Andrea Karanik then confirmed that they could sell to the public if they choose to. Mr. Reed agreed to that statement.

David DiSabato asked if there is any difference between a Club and a Plenary license. The license entitles the holder to serve.

Chris Downing stated that the applicant is controlled by the Board by the approval they grant. Mr. Downing suggested that a restaurant is a permitted use subject to site plan approval and that the application needs to be tightened down as to what this use is. Mr. Thomas summarized the issues: From a land use issue, 1) can a land use board place on the activity; 2) what does license allow; 3) if approved there is enforcement issue. If there are two separate entities, there may be a problem. Roger Thomas will get the documentation to Mr. Heck.

Public portion for questions of this witness was closed.

Sean Monaghan questioned Mr. Reed and asked if that commercial portion can be carved out of the license and would it be difficult. Mr. Reed answered yes it can be carved out and no, it is not difficult. He asked Mr. Francis for the distinction between Rob Francis Sport Cars and the Red Horse Motoring Club. Mr. Francis advised of his conversation with the writer of the newspaper article. Mr. Reed signed off at this time. The sale of alcoholic beverages will have no affect on his Sports Car Dealership.

Mr. Francis described the only entrance to the Red Horse Motoring Club which is located next to the Coco Lux. The entrance to the dealership is within the glassed area. The dealership is separate from the club. The dealership is the main showroom and the vehicles out front. Any activity having to do with the club is separate from the dealership. Mr. Francis will provide a copy of the lease he has with the Red Horse Motoring Club with the Sports Car Dealership. People will not be able to wander around the dealership with a drink. The dealership will be open on hours like the club..

Public portion of Mr. Francis.

David DiSabato questioned the witness. No one would be allowed to enter the Club from the dealership. The doors are locked. He questioned how members will be monitored from wandering around the facility. This is a concern that board members have.

Mr. Downing questioned Mr. Francis as to the days and hours of operation of the dealership. The hours are 10 a.m. to 6 p.m. from Monday thru Friday and from 10 a.m. to 5 p.m. on Saturday.

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James Heck suggested that the showroom is isolated from the plenary license and should be monitored by the Club.

David DiSabato clarified the boundaries of the liquor license which covers the entire property. The council granted an all-encompassing license.

No further questions of Mr. Francis

Called Steve Everett was called to testify and was reminded that he is still under oath. Mr. Everett testified to the newspaper article which he stated is correct. To build membership, they may open the club to the public on a specific date and time. He testified that he would be willing to go to the council to apply to amend the extent of the licensed premises to exclude the car dealership and to address the potential issue that was raised about prohibitions against mercantile operations within the license process. He added that it was never their intention to have people at the sidewalk or in front by the cars with alcohol. "We would keep it confined to behind to the membership space."

Mr. Downing asked the witness if they would be willing to have a time restraint on being open to the public. He agreed within reason. Until the club opens, everyone will be a member of the public until there is a membership base. He is willing to consider any recommendations that are reasonable. He stated that he thinks the Club is a big addition to the community, not something that is going to be a distraction. Mr. Downing feels that this is a major topic to this application. Mr. Thomas felt that this is a discussion to be had after the completion of the presentation by the applicant. Mr. Thomas suggested that Mr. Everett have an opportunity to ask what the concerns are after the case has been presented.

There were no further questions of Mr. Everett.

Rob Francis was brought back as a witness. He advised that he has had a conversation with Mr. Brier of Country Club Services which is a valet service. He will provide valet parking services for events that they may have. They provide valet services to Natirar. He explained that they have been in contact with Melillo Equities who own the Peapack Gladstone Bank property and are willing to have them use parking spaces there. He described that various areas where parking is available. John Szabo would like the traffic engineer to address queuing for events, capacities, and times of motion, how quickly these cars move off. These are the key issues. David DiSabato questioned the size of the parking area across Main Street. Mr. Francis estimated 25 spaces.

No further questions of Mr. Francis.

Hiland Turner, Architect was sworn in by Mr. Thomas. His office is located at 17 Mendham Road.

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John Hansen was made the presenter so that Mr. Turner's plans were visible to everyone. Mr. Turner advised that he is a licensed architect and has testified before the land use board of Peapack & Gladstone. He was accepted as an expert witness.

Mr. Turner prepared the plans which were submitted with the application. They are shown on the screen A-102 – ground floor. He testified that the building was an old theater and converted into an automobile dealership. The area on the right is all concrete decks and steel beams holding the roof. There is a 5 ½' space between the two buildings where there is a staircase. The only connection is the vestibule area and staircase. He described the floor plan on the left side showing the show room and a separate access. The lounge area contains a large staircase to the lounge area below this area. There is a stage area at the rear. There is 3 ½' difference in elevation which appears to be a stage and a bar area above which overlooks the lounge. The bar area is currently unfinished. There will be a lift for handicapped accessibility to the right. He described the areas for the automobiles. The B-3 Showrooms are the two areas to the right. They will redesignate those areas as exhibit/storage areas for the Red Horse Motor Club. There are several automobiles in these areas.

Mr. Turner then showed the basement level under the areas on the left and described the area which includes an unexcavated area including utility and mechanical areas for the electrical, mechanicals and plumbing, there will be a small bar area to the left and to the right of that a visualization an area where a stationary vehicle can be driven. There is a lounge designated as **A-2**. It comprises 2,100 s.f. The kitchen is in the area toward the north area. He described the kitchen and the means of egress to the outside. A total of 12 people will be able to sit in this area. There is a staircase in this to the upstairs. The entire building will be sprinklered. Area **H-3** has refrigeration and hazardous materials such as gasoline in the automobiles. Chris Downing questioned the access to the refrigerators. William Ryden, Board Engineer asked if there are overhead garage doors at the back of the kitchen area. Mr. Ryden was advised that there will be access doors which will replace the garage doors. There are 2 tables in the dining area. Six people can sit at each table. The Board Members questioned the witness about these areas. The entire building will be sprinklered. Kingsley Hill questioned the witness about the structure what is running through the air spaces. There were questions about the gasoline in the automobiles, the refrigeration for the food and alcohol and the firewall placed between the sides of the refrigeration and access in this area.

Second floor above Rob Francis' office space. There will be a bath and storage area consisting of 1,300 s.f. and is currently finished and will be defined as the 'conference room'. This is directly accessed from Mr. Francis' office area. This area could be part of the club or used by both; it has not been defined yet. Mr. Thomas clarified this, and Chairman DiSabato suggested that there be testimony on this. Mr. Downing questioned the area between B-2 and B-3 and who will use the door. A door could be put in with access to the front of the building. It appears to be a doorway to nowhere.

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Kingsley Hill questioned the framing materials in the two buildings. There was discussion on the structure of the buildings. Roger Thomas advised that this line of questioning is beyond the jurisdiction of the board and will be addressed by the building officials. Joan Dill asked if the gasoline storage can be removed and moved to the back buildings. Mr. Turner explained that the gasoline is in the automobiles. He explained the encasement of the area. Mr. Thomas asked that the Board and the public to try and focus only on the architecture.

The applicant's attorney Sean Monaghan questioned Mr. Turner regarding the interior changes to the building which do not expand the footprint or the height. Mr. Turner advised that the design process will comply with all codes. **H-3** is for the storage of vehicles which contain hazardous materials (gasoline). It was previously used for display and repair. The B-3 area were showrooms, and it was also used as a mechanical service area for automobiles. The house at 165 Main Street, is not habitable currently. It will provide a link between the Park and the garden/patio. He testified that the dealership building has been used as a vehicle display and repair for over 100 years and the proposed use is in keeping with this. That concluded Mr. Monaghan's question of the witness.

Chairman DiSabato questioned if there are going to be any testimony regarding the demolition of the house. Mr. Hansen will address this issue.

Public portion – No questions from the public of this witness.

Roger Thomas suggested that this is a good time to end the meeting. Mr. Hansen's testimony will be at the next meeting of May 5, 2021. Roger Thomas is not available at the meeting of the 21st of April. John Szabo is also unavailable. It is important to have both gentlemen at the meeting.

Mr. Hansen is available at the May 5th meeting.

The hearing was carried to the May 5, 2021 at 7 p.m. meeting of the Land Use Board without further notice.

Mr. Monaghan agreed to extend the time for decision until the end of May.

ADJOURNMENT – There being no further business, the meeting was adjourned at 10:00 p.m.

Sarah Jane Noll
Clerk/Administrator