

**PLANNING AND ZONING COMMISSION**  
**MEETING MINUTES**  
**April 18, 2019**

1. Chairman Baptist Damiano called the meeting to order at 6:00 p.m. with the Pledge of Allegiance. Commission Members Damiano, Nicholson, Liddle, Amendt and Sigvardson were in attendance. Planning & Zoning & Development Director Ken Cimino, Engineer James Lober, Town Solicitor Dennis Schrader, and Jill Oliver were also in attendance. The meeting was held at 32 West Avenue.

2. **APPROVAL OF AGENDA**

*A motion was made by Mr. Liddle, seconded by Mr. Sigvardson, to approve the agenda. The motion carried unanimously 5/0.*

3. **APPROVAL OF MINUTES**

*A motion was made by Mr. Damiano, seconded by Mr. Nicholson, to approve the March 21, 2019 minutes as presented. The motion carried unanimously 5/0.*

4. **NEW BUSINESS**

**A. P-324 3 Atlantic Avenue (PIDN:284.002/Sussex CTM# 134-13.00-30.00)**

A concept plan development site plan submitted by the property owners Adams Family Enterprises, LLC, DBA Shipwrecked, LLC, in order to establish a general business (miniature golf course) on property zoned GB-1 located at 3 Atlantic Avenue.

Mr. Schrader explained what a concept plan review is to the public present at the meeting. He explained that the permit for the mini golf was granted by the Board of Adjustment and there was to be no denial of the mini golf at this meeting.

Mr. James Lober, of Kercher Engineering, read his overview letter to the Commission. He said the following: Pursuant to your request, The Kercher Group, Inc. (TKG) has reviewed the plans listed below.

- Contract Drawings for Ocean View Mini Golf – Rauch, Inc. - dated 3/4/19; and,
- Shipwrecked Miniature Golf – Harris Miniature Golf – dated 2/16/18 and as revised through 5/25/18

Mr. Lober said, based upon our review, we have the following comments.

1. Provide a complete site data column on the plan including but not necessarily limited to the following items
  - a. Zoning
  - b. Dimensional Requirements
  - c. Proposed Use
  - d. Proposed Gross Floor Area of all structures
  - e. Required number of parking spaces
  - f. An accurate assessment of the lot coverage proposed by the plan.
  - g. Water Service Provider
  - h. Sewer Service Provider
  
2. Provide the height of the building and all elements of the golf course on the plan.

3. Show the location of all existing and proposed mechanical equipment on the plan.
4. Show the proposed location of the dumpster area and specify on the plan how it will be screened.
5. Correct the BRL label on the front lot line setback.

#### Special Exception

1. The parcel is zoned GB-1. The proposed use of Miniature Golf Course is permitted within GB-1 zoning as a Special Exception as noted in Chapter 140 Land Use and Development - Attachment 1 Table of Permitted Uses and Structures. Special Exception approval was granted by the Board of Adjustment at their meeting of December 20, 2018. Include a note on the plans referencing the special exception approval.
2. Chapter 140 Article VI Additional Use and Dimensional Regulations - Section 140-42.4 Miniature Golf Courses, includes additional requirements specific to the proposed use of Miniature Golf Course with which this project will be required to comply, in addition to all other applicable standards of the GB-1 zoning district.

#### Variances

1. The elements of the miniature golf course construction qualify as “structures” as defined by Section 140-152 of the Town code. Section 140-31 of the Town code requires setback dimensions for buildings and structures. The elements of the golf course are required to be built in accordance with the required setbacks. The plan as currently designed shows golf course structures within the front and side setbacks. The golf course will need to be redesigned to move all elements behind the setback lines or variances will need to be obtained from the Board of Adjustment for relief from the required setbacks.
2. There appears to be a small extension off of the back of the proposed building that encroaches into the 15 ft. building setback. This portion of the building will need to be removed, the building will need to be shifted away from the setback line or a variance will need to be obtained from the Board of Adjustment for relief from the required setback.

#### Floodplain

1. The subject parcel lies within a FEMA Special Flood Hazard Area – Zone AE with no floodway, elevation 7 as shown on FEMA NFIP FIRM Panel 10005C0512K dated March 16, 2015. Show the floodplain boundary on the plan and add a note to the plan stating the floodplain information.
2. Section 116-5-E2 of the Town code- Development in areas with base flood elevations but no floodways, states:

- (a) For development activities in a flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
- (b) The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential flood hazard area encroachments will not increase the base flood elevation more than 1.0 foot at any point.

**Until items a and b have been satisfied, no plan for development on-site can be considered code compliant.**

- 3. Upon FEMA approval, any plan for the site will be required to comply with all applicable aspects of Sections 116-4 and 116-5 of the Town Code.

#### Wetlands

- 1. Provide a wetland delineation report in accordance with Section 116-13 of the Town code.

#### Parking

- 1. The code does not currently include a minimum number of required parking spaces for the proposed use. Section 140-59 paragraph B(3) notes that the required number of parking spaces for uses not specifically listed shall be the same as for a similar listed use. The listed use most similar to the proposed use of miniature golf course is restaurant. The number of parking spaces required based on an estimate of the total proposed floor area of the buildings and the restaurant multiplier of 1 parking space for each 50 sq. ft. of floor area is 28. The plan currently includes 16 parking spaces. Revise the plan to provide 28 parking spaces or provide a parking study in accordance with Section 140-59 paragraph E(3) for consideration by the Planning and Zoning Commission to permit modification of the number of required parking spaces.
- 2. The plan currently shows one handicap parking space. That space is not van accessible. Revise the plan to provide a van-accessible space that complies with ADA requirements. Ensure that the total number of handicap spaces provided is in accordance with ADA requirements based on the required parking space calculation to be completed in conjunction with the previous comment.

## Utilities

1. Show the location of the water main to which the proposed service will be connected.
2. Show the location of the existing water and sewer services to the existing building.
3. Provide approval from Sussex County Engineering for the proposed grinder pump forcemain connection to the existing 10” forcemain.

## Easements

1. A cross access easement agreement for ingress and egress will be required between the subject parcel and the adjacent parcel to the west. That easement will need to be recorded prior to approval of the final plan.
2. Show the easement associated with the canal path that crosses the south east corner of the subject parcel.
3. Any utilities serving the subject parcel crossing the adjacent parcel to the west will be required to be covered by easements. These easements will need to be recorded prior to final plan approval.
4. The golf course construction is shown within the 20 ft. wide sanitary sewer easement. Provide approval from Sussex County for the proposed construction within the easement.
5. Show the conservation area from the previous subdivision on the plan and ensure that the LOD remains outside of that area.

## Stormwater Management

1. The “ex. grass swale” shown on the plan is a stormwater management feature required in conjunction with previous development on the subject parcel and the adjacent parcel to the west. Revise the label for this feature to clearly delineate it as a “stormwater management area”.
2. Sediment and Stormwater approval for the project has been granted by the Sussex Conservation District.
3. Provide a grading plan in accordance with Section 140-100 of the Town Code.
4. All of the grading proposed by the project needs to be designed and reflected on a plan signed and sealed by a certified Delaware professional engineer or land surveyor. The grading within the golf course area must be depicted on the plan and properly incorporated with the grading on-site outside of the golf course area.

Mr. Vince Robertson, of Parkowski, Guerke & Swayze, PA, spoke on behalf of the Adams family. He spoke about needing a variance for the mini golf structures. They want to reconsider and look at how to apply the code. Mr. Robertson also spoke about the amount of parking spaces needed, comparing to a restaurant not the best comparison. He said parking for mini golf is not defined in the Town code. Mr. Robertson noted that there is no code in any of the surrounding towns for parking at a mini golf. He felt the engineers could come to an agreement on parking. Mr. Lober noted that he selected the closest comparable use, which is restaurant, and totals 28 spaces.

Mr. Douglas Brown, Rauch Corporation, commented that items 1 – 5 were no problem and were taken care of. He said a document was prepared to go to FEMA, a LOMA-F document. (letter of map adjustment for fill) He said the mini golf would not raise flood level, rather it would lower it. Mr. Brown also said he talked to Sussex County about getting an easement. Mr. Brown said he could not find any parking requirements for mini golf courses. He said he would prepare a study for the parking. He said he has a conflict about what a structure is considered.

Mr. Schrader inquired about a recording device that was being used by Mr. Meleck.

Rebecca Adams, applicant, stated they used the parking model for a funeral home and a church from the code. She cited several area mini golf places and the total number of parking spaces they have available. Some had no parking available and others had up to 53 spaces. They are planning for 18 spaces plus one handicap. She said they would have the mini golf and take out ice cream. Mrs. Adams also noted there is a storage building on the premises that they plan to live in on the second floor. The mini gold would be 70% native species. There would be a 16' row boat and a waterfall with a stream.

Mr. Schrader noted for the record that some letters had been received by the Town in opposition to the mini golf. The letters came from the following property owners: Brandt, Coon, Meleck, Johnson, Osher, and Ladd. Mr. Schrader noted that the opposition is noted however, approval for the special exception was granted in December by the Board of Adjustment, prior to the dates on all the letters.

In public comment, Mr. Robert Johnson, 2 Ocean Mist Drive, asked about the special exception process. Mr. Schrader explained the process. Mr. Johnson complained about the appeal process and was not satisfied with Mr. Schrader's response.

Mr. Tom Meleck, 23 Ocean Mist, spoke to the Commission about parking spaces and the trees that would be cut down for this project to move forward, which will impact the wildlife that relies on the trees. He said the noise at certain times of the day would very loud. Mr. Meleck also expressed concern about the business hours and the added congestion on Route 26. He suggested downward facing lights to reduce the brightness across the roadway.

Mr. Bruce Brandt, 1 Ocean Mist, stated a parking study should be done and they should be required to have 28 parking spaces. He asked about the entrance to the property which Mr. Lober told him was approved by DelDOT as is. He said the Town has no jurisdiction over the roadway.

Mrs. Cindy Brandt, 1 Ocean Mist, expressed concern about the long hours of operation and the additional traffic the mini golf would create.

Mrs. Rita Johnson, 2 Ocean Mist, suggested that walking to the mini golf, especially across the busy roadway, would be dangerous.

Mrs. Terry Meleck, 23 Ocean Mist, commented she thought the mini golf should install bike racks for the people who ride their bikes to the complex.

Mr. Schrader closed the public portion of the meeting, noting that this is a concept plan and complaints cannot stop the project. The Planning & Zoning Commission does not have the authority to stop the development. He noted that we can set and add conditions to the project such as lighting and enforcing setbacks.

Mr. Sigvardson asked why mini golf had to be a special exception. Mr. Schrader explained the Council set the approved use as a special exception. Mr. Nicholson questioned how many might be playing at one time. Mrs. Adams replied that she hoped to have 50% capacity at all times.

## **5. ADJOURNMENT**

*A motion was made by Mr. Damiano, seconded by Mr. Nicholson, to adjourn the meeting at 7:17pm. The motion carried unanimously 5/0.*

Respectfully submitted,  
Donna M. Schwartz, CMC