

PLANNING AND ZONING COMMISSION
MEETING MINUTES
October 17, 2019

1. Baptist Damiano called the meeting to order at 5:00 p.m. with the Pledge of Allegiance. Commission Members Sigvardson, Nicholson, Liddle, and Amendt were in attendance. Planning & Zoning & Development Director Ken Cimino, Town Engineer James Lober, Town Solicitor Dennis Schrader, and Donna Schwartz were also in attendance. The meeting was held at 32 West Avenue.

2. **APPROVAL OF AGENDA**

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

3. **APPROVAL OF MINUTES**

A motion was made by Mr. Sigvardson, seconded by Mr. Nicholson, to approve the September 19, 2019 minutes as presented. The motion carried unanimously 5/0.

4. **OLD BUSINESS**

A. **P-324 3 Atlantic Avenue (PIDN:284.002/CTM# 13413.00-30.00)**

Pursuant to your request, The Kercher Group, Inc. (TKG) has reviewed the plans listed below.

- Site Plan - Lands Adams Family Enterprises, LLC – Prepared by Rauch, Inc. - as revised through 9/26/19
- Demolition & Existing Conditions Plan - Lands Adams Family Enterprises, LLC – Prepared by Rauch, Inc. - as revised through 9/26/19
- Site Grading, Utility & Sediment Plan - Lands Adams Family Enterprises, LLC – Prepared by Rauch, Inc. - as revised through 9/26/19

Comments from our Preliminary Plan review have been addressed as follows. Please note that comments previously addressed have been removed for clarity.

Generally

1. All of the gross floor area on site needs to be incorporated in the data column. It appears that the gross floor area of the ice cream stand needs to be added.

pc) Remaining Site Data Column items

- a. Provide the proposed gross floor area for all structures on site.
- b. The required number of parking spaces has been outlined on the Site Plan and is shown to be 23 with 24 being provided. The notes on the Demolition & Existing Conditions plan list the required number of spaces to be 24 with 26 provided. Please reconcile these numbers.
- c. Provide the lot coverage as a percentage of the total lot area so that it can be directly compared to the maximum 50% coverage permitted by code.
- d. The water service provider should be listed as Tidewater Utilities.

2. Please add the height of the tallest golf course element to the plan.

- pc) The building height has been added to the plan. Please include the height of the tallest element of the golf course structures on the plan as well.
- pc) No height information has been included on the plan.
- pc) Provide the height of the building and all elements of the golf course on the plan.

Variances

1. The Board of Adjustment, at their meeting of September 19, 2019, granted approval of variances to provide relief from the front and side yard setbacks with the respect to the placement of the golf course structures. Include the following note on the plan. "Variances were granted by the Board of Adjustment on 9/19/19 to permit the proposed golf course structures to encroach into the required 30' front yard setback and required 15' side yard setback. See variance application V-393"

- pc) It is our understanding that the applicant intends to pursue a variance to permit the aspects of the golf course construction to be placed within the required setbacks. Should the Board of Adjustment grant the necessary variances, a note will need to be added to the plan referencing the Board's decision. Should the Board not grant the necessary variance, the layout will need to be revisited in accordance with our previous comments.

Wetlands

1. Provide correspondence signed by the Wetland Specialist certifying their findings.

- pc) A note has been added to the plan stating that no wetlands exist on site. Please provide a letter from the Wetlands Specialist certifying to their findings.
- pc) Provide a copy of the wetlands report as previously requested. Include a note on the plan reflecting the findings of the report.
- pc) Provide a wetland delineation report in accordance with Section 116-13 of the Town code.

Parking

1. Addressed

- pc) A parking analysis has been provided that addresses the fact that parking requirements for a miniature golf course are not specifically addressed in the code. The Town finds the

parking rationale acceptable. The project will now be required to provide 23 parking spaces.

- pc) The plan has been revised to include 24 parking spaces. No parking study or other justification for the number of spaces was provided. Of the 24 spaces provided, the 2 curved spaces shown on the outside circumference of the drive aisle and the 2 parallel spaces east of the proposed building in the rear are inaccessible and unacceptable. The remaining 20 spaces do not meet the 28 previously determined to be the requisite number of spaces for the proposed use. Revise the design to provide 28 spaces, or provide some justification for providing fewer spaces for review and consideration by the Town.

- pc) 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.

Utilities

3. Provide approval from Sussex County

- pc) The connection point to the sanitary sewer has been revised. Approval from Sussex County of the tie-in location is still necessary to satisfy the Town's requirements.

- pc) Provide approval from Sussex County Engineering with regard to the proposed sanitary sewer connection, wherever that connection ends up being made.

- pc) Provide approval from Sussex County Engineering for the proposed grinder pump forcemain connection to the existing 10" forcemain.

Easements

1. Recordation information for the agreement has not yet been added to the plan

- pc) A note has been added to the plan referencing the Joint Driveway Agreement and a signed copy has been provided. Once the document is recorded the recordation information will need to be included in the note.
 - pc) A document entitled Amendment to Joint Driveway Agreement has been provided. This document has not been signed or recorded. Provide a copy of the Joint Driveway Agreement referenced in this document. The amendment will need to be recorded and referenced on the plan prior to final approval.
 - pc) 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. This easement for the canal path that crosses the south east corner of the site no longer appears on the plan. Please depict the easement and add a note to the plan referencing the easement.
- pc) A note referencing this easement should be added to the “Special Notes” listing on the Site Plan. Once the document is recorded the note will need to be revised to include the recordation information.
 - pc) The easement has been shown across the southeast corner, however the document provided does not appear to have been signed or recorded. If this document has been previously recorded, please provide a copy of the recorded document and reference the recordation information on the plan. If this document has yet to be recorded it will need to be recorded and referenced on the plan prior to final approval.
 - pc) Show the easement associated with the canal path that crosses the south east corner of the subject parcel.
3. Recordation information for the agreement has not yet been added to the plan.
- pc) A note has been added to the plan referencing the Water Agreement and a signed copy has been provided. Once the document is recorded the recordation information will need to be included in the note.
 - pc) A document title Water Agreement has been provided addressing the existing water service to the property. This document does not appear to have been signed or recorded. If this document has been previously recorded, please provide a copy of the recorded document and reference the recordation information on the plan. If this document has yet to be recorded it will need to be recorded and referenced on the plan prior to final approval.

pc) 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. Recordation information for the easement has not yet been added to the plan.

pc) A note has been added to the plan referencing the easement with Sussex County. Once the document is recorded the note will need to be revised to include the recordation information.

pc) Provide approval from Sussex County for the proposed construction within the easement. pc) 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. This comment was previously addressed, however, please also add the deed book and page information for the plan to the label so that it is clear where this requirement originated.

pc) Addressed.

pc) The previous subdivision plan that created the parcel that is the subject of this application, and reflects the 4,804 sq. ft. conservation area that was a condition of that subdivision approval, was recorded at the Sussex County Record of Deeds on July 11, 2008 at deed book 00121 page 00108. A copy of that plan is attached hereto for your use. Show the conservation area on the plan and ensure that the LOD remains outside of that area.

pc) Show the conservation area from the previous subdivision on the plan and ensure that the LOD remains outside of that area.

Stormwater Management

1. Addressed

pc) The corner of the proposed gravel lot still encroaches into the Stormwater Management Easement. The stormwater management easement was provided as a requirement of the Conservation District associated with the sediment and stormwater approval of the previous plan. If, in the Conservation District's opinion, the encroachment into the easement is acceptable and will not adversely affect the stormwater management feature, the Town will accept their decision. Please discuss the issue with them and provide correspondence from them addressing the matter.

pc) Addressed. The proposed paving associated with the parking lot encroaches into the stormwater management easement. Redesign the parking area to remove any disturbance from the stormwater management easement.

- pc) 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”.

Grading

1. Additional detail is still required in the area of the handicap parking to ensure ADA compliance. The grading plan provided is sufficient for the purposes of this approval. The additional detail should be added on the single lot grading plan that is submitted for building permit issuance.

- pc) A grading plan has been provided. Please add detail in the area of the handicap parking space and van accessible area to clearly depict that the grading in this area is ADA compliant.

- pc) A grading plan designed in accordance with requirements of the Town Code will be required to be reviewed and approved prior to final approval of the plan.

- pc) Provide a grading plan in accordance with Section 140-100 of the Town Code.

Agency Referrals

1. The applicant has provided agency approvals from the Sussex Conservation District and DelDOT. Approvals from the Fire Marshal, Sussex County, and FEMA remain outstanding.

Mrs. Rebecca Adams was present to represent her application. She agreed with Mr. Schrader that most of the missing items were bookkeeping items. She will follow-up to make sure the items are completed. Mrs. Adams stated that they have no easement agreement with the state on the canal. Tidewater is not a problem.

No public comment.

A motion was made by Mr. Sigvardson, seconded by Mr. Nicholson, to grant conditional final approval for the mini golf site plan. The motion carried unanimously 5/0.

B. P-326 81 Central Avenue (PIDN:048.006/CTM# 134-2.00-645.00)

Mariner’s Bethel UMC – The Hope Center – Prepared by Becker Morgan Group -
Based upon our review, Mr. Lober had the following comments

New Comments based on this Review

1. Provide recordation information for the off-site drainage easement to the west.

2. Sussex Conservation District approval has been provided. Provide approvals from all other applicable reviewing agencies, including but not necessarily limited to DeDOT, the Fire Marshal and Sussex County Engineering.
3. Provide a written statement from the church stipulating that the assembly hall will mainly serve as an accessory use to the church and that events that use the full capacity of the assembly hall square footage will not be held simultaneously with events that use the full capacity of the church square footage.
4. Revise the parking calculation on the plan to account for the church square footage as a place of worship at 1 parking space per 100 sq. ft. and the square footage of the new building as a place of assembly at 1 parking space per 50 sq. ft. Include a note stating that the place of worship use will not be conducted simultaneously with the assembly hall use and note, therefore, that the parking requirement is the greater of the two, not the total.

Generally

1. Addressed
pc. The existing zoning of the parcel is R-1. The church qualifies as a “place of worship”, which is a permitted use within the R-1 zoning. There is no separate Institutional zoning category.
2. Addressed
pc. Provide a purpose note on the plan explaining the proposed uses within the new building.
3. Addressed
pc. The parking calculation provided assigns the same rate of 1 parking space per 100 s.f. to the church and the new building. The 1 parking space per 100 s.f. applies to places of worship. Provide an explanation of the proposed uses of the new building so that the most appropriate parking calculation can be applied.
4. Addressed
pc. Include the maximum allowable lot coverage of 35% within the bulk requirements listed in the site data column.
5. Addressed
pc. Provide the lot coverage percentage for direct comparison to the maximum 35% permissible by code.
6. Addressed
pc. Provide the height of all the buildings on site on the plan.
7. Addressed
pc. Show the location of all proposed mechanical equipment on the plan.

Variances

1. Addressed

pc. At their meeting of January 18, 2018, the Board of Adjustment approved a variance to permit the height of the existing maintenance building, existing pavilion and the proposed Hope Center to exceed the maximum allowable height of 14 ft. for detached accessory structures. The approval permits the maintenance building and the pavilion to be 18 ft. in height and the Hope Center to be 36 ft. This approval was contingent upon no living space being proposed within the buildings and the approval of the land development plan for the Hope Center. Add a note to the plan referencing this approval.

Stormwater Management

1. Addressed

pc. Provide stormwater management in accordance with the Delaware Sediment and Stormwater Regulations. Provide copies of all stormwater management design calculations and plans. The Town will require approval of the stormwater management design from the Sussex Conservation District prior to final plan approval.

Mr. Amendt recused himself. Mr. Steve Benton was present to represent Mariner's Bethel Church. He stated all approvals were in, however he was concerned about the projected parking requirements. He said he had a letter from the church which said the two buildings would not be used simultaneously so there would be no need for any additional parking. Mr. Benton will add the parking calculation to the site plan.

Mr. Schrader asked if the two buildings had separate purposes. Mr. Benton replied yes. Pastor David Humphry stated he addressed parking in the letter. He said there are no planned events for the two buildings. He said when there is a funeral; other events get cancelled.

No public comment.

A motion was made by Mr. Nicholson, seconded by Mr. Liddle, to grant conditional final approval to the Church for the site plans. The motion carried unanimously 4/0. Mr. Amendt abstaining.

5. ADJOURNMENT

A motion was made by Mr. Damiano, seconded by Mr. Nicholson, to adjourn the meeting at 6:35pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC