

**BOROUGH OF TINTON FALLS
PLANNING BOARD**

**REGULAR MEETING
SEPTEMBER 23, 2009**

Vice Chairman Gordon Brown called the meeting to order at 7:30 P.M.

Vice Chairman Gordon Brown read the following statement: "This is a regular meeting of the Tinton Falls Planning Board and is being held in compliance with the New Jersey Open Public Meetings Act. Adequate notice of this meeting has been given by posting on the Bulletin Board of the Municipal Building and by advertising in the Asbury Park Press and The Coaster."

ROLL CALL

Present: Mayor Skudera, Councilman Baldwin, Det. Trocchia, Mr. Brown, Mr. King, Mr. Lomangino, Mr. Lodato, Mr. Timney, Ms. Alfano (*arrived at 8:35*)

Absent: Mr. Cunningham, Mr. Purcell

Others: Dennis Collins (Board Attorney); Paul Gleitz (Borough Planner); Erin Swartz (Board Secretary)

All present stood for a Salute of the Flag.

Approval of Minutes – Mr. Brown indicated that everyone received a copy of the minutes in their packets. No comments were received.

Mr. King offered a motion to approve the minutes of August 26, 2009, seconded by Detective Trocchia.

ROLL CALL:

AYES: Mr. King, Det. Trocchia, Mayor Skudera, Councilman Baldwin, Mr. Brown, Mr. Lomangino, Mr. Timney,

NAYS: None

ABSENT: Mr. Cunningham, Mr. Purcell, Ms. Alfano

INELIGIBLE: Mr. Lodato

Borough Council's Request for Recommendation on Zone Change Request – Block 67.01, Lot 8.01 – Mr. Brown stated that the Board is in receipt of a letter from the Borough Administrator, Bryan Dempsey, indicating there is a request from Council that the Planning Board review a requested zone change for a property on Sycamore Avenue and provide a recommendation. An email was sent out by Mr. Collins giving some legal guidance for this type of request. There are two objectives for the Board this evening; one is how to handle this type of request and then to discuss this particular request.

Mr. Collins explained that the email he sent the Board was at the request of Chairman Cunningham, who had asked how the Board should handle this. In the past, the previous Chairman would not place these types of items on the Agenda due to the review of the Master Plan. There is nothing in the Municipal Land Use Law that delineates the power of making a zone change recommendation, nor does it prohibit it. Anything that is said or done by the Board is non-binding and is only a recommendation. As the Board gets further and further away from a Master Plan, these types of requests will come in quite often. As the community develops, there will be these boundary-type zoning requests to try and move the line by a lot or two in various areas. In many towns, the Council is the body who decides whether the zone should be changed and they usually do not feel equipped to make that type of decision, therefore they will refer it to the Planning Board, since that is the body that does the Master Plan, in order to hear their opinion and recommendation, which is not an unreasonable request.

Mr. Collins explained the various ways to handle this type of request. He added that there was no notice required for this meeting and one of the potential pitfalls is that the Board is going to review a 20 page report from the property owner, have the Board experts make a report and make a recommendation. If the Council decides to introduce this Ordinance, they will be required to give notice to everyone in the zone and everyone within 200 feet of the zone. At that time members of the

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public could come in and express concerns that this was done without any input from surrounding property owners. He would like to stress that the Board can handle this in any way they please.

Mr. Lodato questioned whether or not this would set precedent. Mr. Collins advised absolutely not; one size does not fit all with these types of requests.

Mr. Gleitz explained that this is not an uncommon request. Usually when an applicant is not prepared to offer a full site plan presentation, but would like to understand their limitations, they may do this to get ahead of the process rather than get into developing a project and getting a use variance.

Mr. Collins explained the Council's voting requirements for a zone change Ordinance.

Mr. Brown asked if there are any Board members who object to this discussion.

Mr. Baldwin stated that the Borough Council does not have the expertise to handle Land Use issues. He further explained that he feels uncomfortable discussing a possible zone change or even considering it without the neighboring properties being made aware of the request. He hasn't seen what the property owner is planning for that property and he thinks that everyone needs to hear that. He also feels that the Board should know whether or not anyone has any objections to this request being granted.

Mr. Lodato stated that there is an opportunity to have a more controlled presentation and asked Mr. Baldwin if he would consider agreeing to the Board asking some basic questions to find out the intention. Mr. Baldwin said he does not mind as long as a decision is not made.

Mayor Skudera agreed that he would feel more comfortable having given notice to the surrounding property owners. That would also be helpful in giving Council the framework of what was considered. The public may even have some insight or objectives that may be useful.

Mr. Baldwin stated that he would like the Historic Commission to be a part of this as well.

Mr. Gleitz asked if it would be better to have the Historic Commission come in during the zoning portion rather than giving recommendations after the application is made. A discussion was held amongst Board members and they agreed that the Historic Commission be asked to give input. Ms. Swartz will contact the Chair of that Commission.

Mr. Lodato offered a motion to permit Board members to ask basic questions regarding the request, seconded by Mr. Lomangino.

ROLL CALL:

AYES: Mr. Lodato, Mr. Lomangino, Mayor Skudera, Councilman Baldwin, Det. Trocchia, Mr. Brown,
Mr. Timney

NAYS: Mr. King

ABSENT: Mr. Cunningham, Mr. Purcell, Ms. Alfano

INELIGIBLE: None

Mr. Lodato asked if he can begin. Mr. Brown gave him the floor.

Mr. Lodato asked for a description of the area that is being discussed.

Andrew Stockton introduced himself as the Engineer for Jim Brooks, who is the property owner. Mr. Stockton displayed an aerial photo of the property.

Mr. Lodato reminded Mr. Stockton to limit his answers to the questions asked.

Mr. Stockton explained that they are here tonight because they had made a request to the Mayor and Council for a partial rezoning of part of their property known as block 67.01 lots 1.01 and 8.01. It is a 3 acre tract bounded by Sycamore and Tinton Avenues and currently is the location of The Falls restaurant and parking area. The property extends behind and on both sides of the Tinton Falls Deli.

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Lot 8.01 is the area for which they are requesting a zone change as it is currently zone R-2 residential and its area is about 2/3 of an acre. Lot 1.01 is zoned Neighborhood Commercial and is about 2.7 acres. The zone boundary cuts down the common lot line of lots 1.01 and 8.01, right through the middle of Mr. Brooks' property. They are asking that the zone line be moved to the northerly lot line of lot 8.01 rather than the southern lot line where it currently exists so that all of the property ends up in the NC zone.

Mr. Lodato questioned the location of the zone lines. Mr. Stockton referred to the aerial photo to depict the locations of the lot lines. Mr. Lodato asked what the adjacent properties were zoned and was informed they are R-2.

Mr. Stockton explained that lot 8.01 currently contains two buildings; a one-story building which is currently used for office space and the front building is a two-story building used as an office/residential mix. Both of those buildings are very close to the side lot line.

Mr. Lodato questioned the motivation for changing the zoning. Mr. Stockton replied that it is two-fold. The first part is that the way that the existing lot 8.01 property operates; it is not used as a residential building lot. It is in the R-2 zone, but if it stood by itself it would not be big enough to comply with the bulk standards of the R-2 zone. They are hoping to put it into the NC zone and redevelop the whole property with a mixture of retail and office space along with redoing the parking area using both lots. What they are proposing is more consistent with the permitted principal and accessory uses in the NC zone.

Mr. Lodato questioned the adjacent creek and the wetlands impact. Mr. Stockton stated that they are still in the preliminary planning stages so wetlands delineations have not been done yet. The property line is at the toe of the slope, so he would be left to assume that that is where the wetlands boundary would be. The wetlands impact should be minimal.

Mr. Lodato asked for an expansion on the intent.

Jim Brooks introduced himself as the property owner and stated that the intent is to develop an Old Charm Village with a retail and office mix, inclusive with The Falls restaurant which currently exists. He is trying to beautify the area. He has spoken to Stacy Slowinski from the Historic Commission and she seemed to love the idea.

Mr. Lodato stated that he is done with his questions. In his opinion, they have gotten a lot of information, more than they can chew on. He referred Mr. Baldwin's comment that the public doesn't have the ability to comment and stated that this is a pretty significant change in his opinion. He thinks it is only fair that the public get a say in this since it is a little more involved than what meets the eye.

Mr. Brooks stated that the previous zone line went through the middle of lot 8.01 and just recently, in the Master Plan, it was moved. He was not notified that this change was going to be done; is this something he should have been notified about?

Mr. Collins advised that the zone lines normally follow property lines and they tend to avoid a split zone lot. If that front building was being used as a residential use, the planner would have properly recommended it to remain in a residential zone.

Mr. Baldwin asked Mr. Brooks if he came to the Board during the Master Plan. Mr. Brooks advised yes, they sent in a letter requesting the zone line be moved.

Mr. Gleitz explained the usual intentions of placing a lot in a residential zone and advised that he didn't draft the Master Plan, but he will talk to Fred Heyer to gather more information.

Mr. Collins stated that a motion is not necessary as it appears to be the consensus of the Board that they would like the public to be noticed. Since there are no legal requirements he asked that the notice be done consistent with the Municipal Land Use Law.

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Mr. Lodato advised that he would like the Historic Commission to attend the meeting. Mr. Collins advised that you can only ask them to come, you cannot require it. The date will be set by the Chairman.

Ms. Swartz advised that she will contact the Historic Commission. She will also discuss a date with the Chairman and advise Mr. Brooks accordingly.

Resolutions –

PB2008-03, Anthony Robeson, Block 68.01, Lots 3.02 & 4, GRANTING AN EXTENSION OF A MINOR SUBDIVISION APPROVAL – Mr. Collins explained that this Resolution has been previously circulated.

Councilman Baldwin offered a motion to adopt the Resolution, seconded by Mr. Timney.

ROLL CALL:

AYES: Councilman Baldwin, Mr. Timney, Mayor Skudera, Det. Trocchia, Mr. Brown, Mr. King, Mr. Lomangino,

NAYS: None

ABSENT: Mr. Cunningham, Mr. Purcell, Ms. Alfano

INELIGIBLE: Mr. Lodato

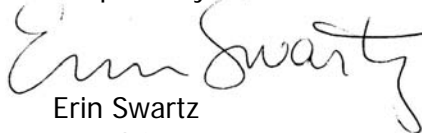
Open Public Discussion – Mr. Brown noted that this is the point of the meeting when the public is allowed to speak on any matter not currently pending before the Board or regarding litigation. No comments were received.

Mr. Brown noted for the record that Ms. Alfano has arrived at 8:35 p.m.

ADJOURNMENT–

Mr. Lodato offered a motion to adjourn the meeting at 8:36 p.m., seconded by Ms. Alfano. All present members voted in favor by voice vote.

Respectfully Submitted,



Erin Swartz
Board Secretary

Approved at a meeting held on: October 14, 2009