TOWN OF ELSMERE PLANNING COMMISSION MEETING MINUTES July 03, 2018 6:30 P.M.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	CHARLES LINDELL	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	LEON BACKER	PRESENT
COMMISSIONER	SALLY JENSEN	PRESENT
COMMISSIONER	JOSE MATTHEWS	ABSENT
COMMISSIONER	DEBORAH NORKAVAGE	PRESENT
COMMISSIONER	KRISTA WRISTON	ABSENT

PUBLIC COMMENT:

None.

APPROVAL OF MINUTES:

Approval of the minutes from the June 05, 2018 Planning Commission meeting

ACTION: Commissioner Backer made a motion to approve the minutes from the June 05, 2018 Planning Commission meeting. The motion was seconded by Commissioner Norkavage.

VOTE: 5 in favor and 2 absent Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Absent

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NEW BUSINESS:

Review Petition 18-04, Tax Parcel Number 1900-200-162

Mr. Julian Pellegrini (Pelsa Company), who is the project engineer, spoke on behalf of the applicant and explained that in this application they were seeking to subdivide the subject parcel at 2 Elsmere Boulevard.

Chairman Lindell noted that the Planning Commission would be hearing both petition applications for the property at this meeting: 18-04 and 18-16.

Code Officer Melissa Faedtke stated that the applicant had answered all questions raised by the building committee and town engineer other than the sidewalk. Chairman Lindell stated that the sidewalk was only a recommendation.

Commissioner Backer inquired whether the variances should be heard first.

Town Manager John Giles advised that any motions should be conditioned on approval of the subdivision by the Mayor and Council.

Commissioner Jensen questioned whether part of the parcel is located in Wilmington and whether this is an issue. Town Manager Giles stated that any issues with the city/town limits would have been indicated by the town engineer and building official. Mr. Pellegrini stated that the deed does not indicate that it is located within the City of Wilmington, therefore they have proceeded with applying to Elsmere for the approval of the project.

Josephine Kaminski, 903 South Grant Avenue, asked whether the proposed building is two story and why it will be situated on the property catty-corner.

Mr. Pellegrini stated that it is an irregular shaped lot and it is situated the best way possible in order to adhere to certain town codes and reduce the total number of variances required. He also presented two drawings that showed the proposed building elevations. The drawings were subsequently marked as Exhibits 18-04V and 18-04W.

Nina Simpson, 911 South Grant Avenue, asked whether anything would be done about a tree that is a nuisance. Mr. Pellegrini confirmed that the tree was on the subject property and, after further discussion, agreed to trim back anything that needed to be trimmed.

Ms. Kaminski stated that she understands that the basement is remaining from the house that was previously on the property, that it was filled in when the Town of Elsmere removed the original house and inquired whether it is stable enough to handle the new building.

Mr. Pellegrini responded that their survey did not show this but it will dealt with during construction should anything be found. He further stated that if they encounter anything, then it will be removed or graded over.

Planning Commission Minutes July 03, 2018 Page 2 of 9 Chairman Lindell asked the applicant about a driveway. Mr. Pellegrini replied that the driveways will be constructed of impervious asphalt. After some discussion, he agreed to explore some of the pervious materials that are available but stated that it would be more cost effective to use asphalt. Chairman Lindell stated that the town is being asked to reduce its overall impervious coverage due to its NPDES [National Pollutant Discharge Elimination System] permit and must review every proposed driveway and additional coverage throughout town.

Commissioner Backer questioned whether the sidewalk is required. Town Manager Giles stated that ADA [Americans with Disabilities Act] requires a sidewalk but that town code does not; in his opinion, the property should have a sidewalk.

In response to questions from Commissioner Anderson, Mr. Pellegrini stated that each unit will be a two bedroom, one and a half bath and that they both have garages.

ACTION: Commissioner Backer made a motion to recommend approval of the minor subdivision with the requirement for a sidewalk is waived and a pervious driveway is used. The motion was seconded by Commissioner Norkavage.

Commissioner Norkavage noted that the pervious driveway would not impact lot coverage at all.

VOTE:	3 in favor, 2 opposed, and 2 absent	Motion carried

Lindell – Yes, Anderson – No, Backer – Yes, Jensen – No, Matthews – Absent, Norkavage – Yes, Wriston – Absent

The commissioners who voted against the motion gave the following reasons for their votes:

- Commissioner Anderson stated that he would prefer to see a sidewalk and driveway.
- Commissioner Jensen stated that she believes there should be a sidewalk and disagreed that the pervious driveway is a tradeoff for that.

Review Petition 18-16, Tax Parcel Number 1900-200-162

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Mr. Pellegrini, speaking on behalf of the applicant, explained that in the design of the project that they tried to balance building size, lot size, and an irregular lot and that they have made some sacrifices to make sure they can meet certain requirements.

Planning Commission Minutes July 03, 2018 Page 3 of 9 The commissioners discussed the petition and asked the applicant questions. In response to a question from Commissioner Jensen, Mr. Pellegrini stated that the variances being requested applies to the westerly lot only.

Commissioner Backer inquired whether the residences will be attached and whether the size of the proposed structure can be reduced. Mr. Pellegrini replied that it will be semidetached and that reducing the size will reduce the livable space considerably.

Commissioner Norkavage asked whether the 234 square feet of additional lot coverage indicated on the site analysis includes the driveway. Mr. Pellegrini answered that this calculation does include the driveway. Commissioner Norkavage pointed out that, with the use of a pervious material for the driveway, the additional lot coverage for NPDES would be less than the 234 square feet.

Town Manager Giles reminded the Commission that any variances should be conditioned on the Mayor and Council approving the subdivision so that the variances do not apply if the subdivision is not approved. Chairman Lindell agreed that this condition should be a part of the motion.

ACTION: Commissioner Norkavage made a motion to recommend to the Board of Adjustment that they approve Petition 18-16 to allow the variances requested to reduce the side yard setback and to reduce the required yard width upon the condition that the Mayor and Council approve the subdivision and that it meets the harmonious development intent of Section 225-9 of the Code of the Town of Elsmere. The motion was seconded by Commissioner Backer.

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Absent

Review Petition 18-17, Tax Parcel Number 1900-500-104

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Commissioner Anderson recused himself to avoid any conflict of interest.

Ron Sutton spoke on behalf of the applicant and explained that the applicant would like to redevelop the property at 504 Kirkwood Highway and operate a Dominoes Pizza at the location. The business would renovate and operate out of the existing building. The existing pavement would be removed and replaced with pervious pavement throughout the parking area and proposed drive-thru.

Planning Commission Minutes July 03, 2018 Page 4 of 9 Some of the existing pavement along Kirkwood Highway would be removed and replaced with grass. Mr. Sutton explained that the plan includes 16 parking spaces and that the code requires 15 parking spaces.

Chairman Lindell inquired about a buffer landscape. Mr. Sutton replied that they can use a combination of fencing and landscaping for screening. Chairman Lindell noted that 20 feet of buffer is required and that he did not notice it indicated on the drawing. Mr. Sutton confirmed that it was not shown on the drawing.

Chairman Lindell inquired about the placement of the drive-thru. A discussion followed with the applicant pointing out on the drawing where the drive-thru would wrap around and that it would exit onto Northern Avenue.

Mr. Sutton stated that there is a small amount of table service planned with three tables on the inside and 12 employees will be working on the largest shift. A discussion followed about the required parking in accordance with Section 225-10E of the town code. Mr. Sutton pointed out that after allowing for the 12 employees, there would be four parking spaces available for customers and that is what he believes the code requires. Code Officer Faedtke confirmed that it meets code.

In response to a question from Chairman Lindell, Mr. Sutton stated that he is guessing that the hours will be until 11:00 p.m. seven days a week including the drive-thru and open around 10:00 or 11:00 a.m.

Chairman Lindell questioned whether orders will be ready when customers go through the drive-thru or whether cars will be idling. Commissioner Norkavage questioned whether there will be enough parking and asked if there would be a delivery service. Mr. Sutton stated that he believes the drive-thru is only for those who have placed an order ahead and that much of the business is through the delivery service.

Commissioner Lindell asked about the location of a dumpster or trash compactor. In response, Mr. Sutton stated that the dumpster would be located behind the building and would be kept behind an enclosure.

Commissioner Norkavage asked whether traffic on Northern Avenue was considered versus Kirkwood Highway. Mr. Sutton stated that he does not believe that DelDOT would give approval of traffic exiting on Kirkwood Highway but that DelDOT has not been contact yet.

The commissioners asked the applicant further questions. In response, the applicant stated that he did not have an answer about plans to control noise, that lighting will be controlled with fences and landscape.

Mr. Sutton stated that signage would meet code. He also indicated the truck unloading area. Chairman Lindell noted that truck traffic would increase on Northern Avenue.

Planning Commission Minutes July 03, 2018 Page 5 of 9 Chairman Lindell inquired about traffic studies on Northern Avenue. Town Manager Giles stated that traffic studies would be handled through the police department.

Town Manager Giles stated that there are already curb cuts along Kirkwood Highway and asked whether DelDOT has denied the applicant. Mr. Sutton answered that DelDOT has not and that they were planning to use the front area to increase pervious area. The applicant agreed to redesign the plan to allow traffic flow from Kirkwood Highway.

Town Manager Giles asked whether anyone can place an order form the drive-thru. Mr. Sutton stated that the way he understands it that the drive-thru is for call ahead orders only. Town Manager Giles asked for further detail about how the drive-thru will work particularly with coordinating when orders will be ready so that traffic continues to flow. Town Manager Giles stated that the applicant did not send enough information for the Planning Commission and the residents to agree to it.

Sharon Burg, 108 Northern Avenue, stated that she is concerned about tractor trailers, traffic flow and children on Northern Avenue.

Steven Burg, 108 Northern Avenue, noted that the applicant said that deliveries would be on Northern Avenue and stated that it will not only affect traffic on Northern Avenue, but also on Western and Baltimore Avenue. Mr. Burg mentioned that a previous variance on the property prohibited traffic from accessing Northern Avenue which required traffic to exit onto Kirkwood Highway and that he understood that variances remain with the property once granted. Mr. Burg further stated that he is concerned that the neighborhoods cannot handle the increase in traffic.

Robert Anderson, 107 Northern Avenue, stated that two years ago Petition 16-18 was approved which required a 20 foot buffer. Mr. Anderson questioned that the plan requires cars to back out of parking spots and into Northern Avenue and questioned what would be required to conduct a traffic study.

Town Manager Giles stated that a traffic study could be done if Council directs the police department to do one.

Mr. Anderson further stated that he is not opposed to the store, but he is opposed to the drive-thru due to concerns about noise and lights from the drive-thru traffic late at night.

Fred Carlson, 104 Western Avenue, stated that it will also affect traffic on Ohio Avenue and questioned whether the code allows a drive-thru in the CC zoning district. Code Officer Faedtke confirmed that it is not prohibited. Mr. Carlson asked about the environmental report due to the previous automotive use. Town Manager Giles stated that everything was cleared with the testing that was done after the car dealer left.

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A short discussion followed between Town Manager Giles and Mr. Carlson related to environmental testing and past conditions at the property. Mr. Carlson also expressed concerns about water runoff and traffic exiting onto Northern Avenue.

Ms. Kaminsky asked whether there is a tractor trailer ordinance in the area that prohibits tractor trailers from being on the local streets. Town Manager Giles stated that it would not apply because local deliveries are permitted.

Chief of Police Laura Giles stated that DelDOT did a traffic study in 2015 as a favor and gave a brief overview of the results including the volume of traffic and speed and that the average speed during the traffic study was 21 MPH. Chief Giles discussed a grant she has received to install a blue tooth computer that will provide more traffic information; however, it will not be available until August.

Mr. Anderson questioned whether the petition would need to be reviewed by the Board of Adjustment for review of the variances that had been previously granted to the property. A discussion followed about how previous variances are handled and whether they are still valid. Mr. Sutton questioned whether the variances would still be valid due to the fact that the use of the property would change. Town Manager Giles stated that he would need to consult with the town attorney.

Todd Coomes, attorney for the applicant, made a request to table the application pending the answer about whether any past variances would still apply.

ACTION: Commissioner Jensen made a motion to table the application until a later meeting until a representative can be present to provide more information and include the information on the variance. The motion was seconded by Commissioner Norkavage.

VOTE: 5 in favor and 2 absent

Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Absent

At 8:17 p.m., Chairman Lindell announced that the Commission would take a five minute recess.

At 8:25 p.m., Chairman Lindell called the meeting back to order. At this time, Mr. Anderson returned to the Commission.

Review Petition 18-18, Tax Parcel Number 1900-100-184

Code Officer Faedtke gave an overview of the petition, including the following sections of the site analysis: The Request, The Statement of Fact, The Issues and The Grant of the Petition.

Planning Commission Minutes July 03, 2018 Page 7 of 9 The applicant, Paul Spitzer, stated that he is seeking to install a new driveway and use impervious asphalt for the new driveway.

Chairman Lindell asked the applicant questions about whether he has considered using a pervious material. Mr. Spitzer questioned whether the sidewalk in front of his house is required or whether he can remove it without a permit. Mr. Spitzer said that he has no problem removing some existing coverage.

Mr. Spitzer stated that he plans to use the existing curb cut but make it a double rather than the single that is currently there. Town Manager Giles replied that all curb cuts must be approved by the town and that it must be approved before the driveway is installed.

Town Manager Giles noted that the petition is being reviewed by the Commission due to the requirement of the NPDES permit. Code Officer Faedtke confirmed that the lot coverage would be 24% with the proposed driveway installed. Town Manager Giles stated that this would remain within the range allowed by the code and does not oppose the petition.

Commissioner Norkavage stated that the property is located at a dangerous curve and that a driveway could reduce the danger of parking in the street. Mr. Spitzer agreed and stated that he has had a vehicle totaled in that curve.

Commissioner Backer asked whether there is a reason for the requested size. Mr. Spitzer replied that both he and his wife have vehicles.

Councilman Brian Hurst, 6th District, stated that he has received no comments regarding this application and that he is in support of the petition.

ACTION: Commissioner Norkavage made a motion to approve Petition 18-18 that it meets the harmonious development intent of Section 225-9 and the town's NPDES permit. The motion was seconded by Commissioner Anderson.

VOTE: 5 in favor and 2 absent

Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Absent

OLD BUSINESS:

None

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ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: Commissioner Norkavage made a motion to adjourn the meeting. The motion was seconded by Commissioner Anderson.

VOTE:5 in favor and 2 absentMotion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Absent

At this time, the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the July 03, 2018 Planning Commission meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

CHARLES LINDELL, CHAIRMAN

LEON BACKER, SECRETARY

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