

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
Regular Meeting
Wednesday, April 20, 2016

Present: Joseph Blaney
Grant, Sheila
William B. Holmes
Christine Hultholm
Bruce Kmosko
Peter Kremer, Vice Chairperson
Charles Lavine
Samuel Pangaldi, Chairperson

Absent: None

Excused Absence: Bernadette Gur

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slauch, Planning Consultant
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson
Susan Snook, Recording Secretary

Statement of Adequate Notice

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times and the Trentonian newspapers.

Oath of Office: Joseph Blaney; Samuel Pangaldi, William B. Holmes

Minutes: January 20, 2016 minutes were approved per unanimous vote

Public Participation (for items not on agenda): none

Resolutions:

Resolution of Memorialization 11-16z; Bulk Variance Application No. ZB-7/15; **John Coiro**; 13 Buckingham Drive; Tax Map Page 70.01, Block 7002, Lot 4 was approved per unanimous vote.

Resolution of Memorialization 12-16z; Bulk Variance Application No. ZB-8/15; **Kay and Kelly Bidle**; 2 Laurel Wood Drive; Tax Map Page 65.01, Block 6508, Lot 26

Applications:

Appeal Application No. ZB-1/16; **Care One Management, LLC**; 3601 Lawrenceville-Princeton Road; Tax Map Pages 66.02 & 66.04, Block 6601, Lot 2

Ms. Julie Hirsch who represented the applicant gave a brief summary of the project location and the project over view. It is an appeal from a decision of the Administrative Officer which is under the jurisdiction of the Zoning Board subject to the Municipal Land Use Law. The Administrative Officer is our Construction Official, Mr. Anthony Cermele. Mr. Cermele issued a decision denying a demolition permit for the Gulick House on December 8, 2015 and this appeal was filed on December 23, 2015. The appeal is also questioning the decision of the Historic Preservation Advisory Committee and that decision from a vote taken from a hearing of November 9, 2015.

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Ms. Hirsch spoke to our attorney, Mr. Schmierer and agreed that no public notice was involved for this type of appeal. There are a number of documents which are part of the basic application:

- Exhibit A-1 (Application to the Historic Preservation Advisory Committee) filled out by Care One Management and at the bottom it notes "demolition is denied vote 4-1", and is signed by the Edward McDonald, Jr., Chairperson. The date of the application was August 17, 2015 and the date of the decision is November 9, 2015.
- Exhibit A-2: December 8, 2015 letter from Anthony J. Cermele, Construction Official denying the demolition.

Mr. Holmes asked about the address of the property being Province Line Road or Lawrenceville-Princeton Road. Mr. Schmierer stated it is on the corner of U.S. Route 206 and Province Line Road.

- Exhibit A-3: Letter with attachments from Mr. McDonald, Chairman, Lawrence Township Historic Preservation Advisory Committee addressed to Mr. Anthony Cermele, dated March 14, 2016.
- Exhibit A-4: Copy of Article XI of the Lawrence Township Land Use Ordinance entitled "Historic Preservation" and has all the provisions that are applicable to this particular appeal.
- Exhibit A-5: An excerpt from the Master Plan dated June 14, 1995 which is the Historic Preservation, Pages 74 – 90.

Ms. Hirsch presented an introduction of the appeal process. The property is located in the historic district, reference to Exhibit A-5, Page 82, which is the description of the Gulick House. The property is within the Historic District and designated as a local landmark it is not a National or State registered site. Ms. Hirsch provided a report, refer to Exhibit A-3, and includes a 1987 review prepared by Susanne Hand of Kinsey & Hand. Ms. Hirsch read the comment and understands it to be that this could not meet the criteria for National or State designation.

There are issues that arise from the Municipal Land Use Law & the Land Development Ordinance, §1107.D and §111 of the MLUL requires that when the Historic Preservation Advisory Committee reviews an application, such as this application, the Committee was obligated to prepare a written report explaining in writing the reasons for any recommendation it makes as a result of a meeting. The Lawrence Township Land Use Ordinance requires that a report is due within 45 days of the submission of a complete application. The longest time frame in favor of the decision was 45 days so by end of the year, a written report explaining the decision to deny the demolition permit was due from the HPAC which was not issued. In fact, by Mr. Cermele's deadline for making a determination of the demolition permit arrived, he did not have anything from HPAC other than the HPAC form that the Committee denied the application, but no reasons for the denial, which made this a violation of the Lawrence Township Land Use Ordinance under §1107.F., copy attached and the Municipal Land Use Law, which has the same language. The meaning of this is that as a result of the failure of HPAC, the issuing report as matter of State law, that demolition permit was approved and that was a binding decision on Mr. Cermele. He was obligated to issue the demolition permit as a result of the failure of that report to be issued. This is one of the main issues that we are raising here.

Ms. Hirsch referred to Article 11 - Historic Preservation and it contains everything you need to evaluate this appeal. In §1109 which contains criteria, A – H, Page 415, copy attached. These are the criteria that apply; these are the criteria that you should consider in hearing testimony and making your decision on this application. The decision should be independent of the decision that was made on the HPAC and you make your decision based on whatever you hear from documents and testimony presented at this meeting.

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Mr. Schmierer clarified that it involves the procedure that was followed by the HPAC issue a report. This whole thing started off procedurally wrong, Care One went directly to Mr. Cermele and asked him to issue the permit when they should have gone to the HPAC, that is what the ordinance provides and from there you would go see the Construction Official. It went to Mr. Cermele and he shot it over to HPAC and the dates are correct.

The sole basis for applying under §1109 of the Code which talks about when you can or recommend demolition it was solely under paragraph D. When Laurie went before the Commission and that was clarified that the one standard/criteria that Care One was arguing for was Sub-section D. The two structures on the property have deteriorated to the point where it is not feasible or economically possible to restore the property. This is the basis for your request to this Board to reconsider the decision of the demolition permit. Ms. Hirsch confirmed this and a transcript was provided.

Mr. Slaugh questioned the form itself issued by HPAC on November 9, 2015 why would that not be considered a part of the record. Ms. Hirsch replied that the written report stating the reasons for the decision and that form states denied but no reasons for the denial. The report from Mr. McDonald in March is the kind of report that should have been issued at that time before Mr. Cermele was required to make his decision on the demolition report.

Mr. Schmierer stated the November 19, 2015 minutes were approved at their meeting in January 11, 2016, which was devoted to this application. The minutes contained all the information presented and adopted, not by the end of December, but a little bit thereafter. Mr. Cermele did not have the minutes in December.

Witness No. 1: Robert Brokenshire, Architect, a copy of his report dated March 1, 2016 is attached and the purpose of the report is for the structural assessment and was a report prepared by Mathew Jarmel dated October 9, 2014, copy attached. Mr. Brokenshire was inside the house and followed his report. He spoke about the fire damage, general conditions of the house, peeling paint (#6); butler's pantry (#7 & 8) the roofing has caved in, significant water damage. Mr. Brokenshire stated he cannot put a time frame on when the damage has started. He continued to the basement (#9 – 12) showing rotted joists from rotten wood with termite damage and wood rot; upper floor (#13 -16) have the same poor condition of finishes; bowing ceilings; third floor (#17 – 19) evidence of water infiltration from the chimney; exterior (#20 – 26) which show some of the exterior walls were visible and they are important for the structure of the building because they are generally bearing walls; if they start to give way it starts to compromise the building; (#22) is missing a steel plate (butler's pantry); (#23) – more deteriorating walls with silt plate missing; (#24 - #26) is where the foundation is coming apart. Mr. Brokenshire's conclusion on the present condition is structural unsound.

He also stated it should not be moved to another location because there would be a lot of prepare work prior to moving it, because there is nothing structurally sound left of the building, where moving a building you are jacking the bottom section and it would be difficult to grab. Mr. Brokenshire spoke with regard to the cost estimate, which was prepared by reviewing the plans (last page attached to his report) and based upon a site visit. The cost estimate was based on standard materials and not historically accurate items. This would bring it up to code and would not be safe use for living in. The estimate budget total is \$1.7 million to repair to make structurally safe. The home is 8,000 sf and to compare to rebuild it would cost approximately \$250.00 sf which would total two-million rebuild fee.

Mr. Slaugh asked Mr. Brokenshire questions from the site visit in January regarding the heating system, basement floor joists being damaged; basement floor material; conditions that would have led to fungal growth; water thru basement walls or stud; silt plates; displaced stones at foundation; cost estimate. Mr. Slaugh would like to see an estimate without unit costs and to supply by the next meeting. Mr. Slaugh stated if the demolition was performed all the historical features would be removed from the house, what is the point?

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Mr. Brokenshire did not see the house prior to January 15th. Mr. Slauch asked Ms. Hirsh if a representative from Care One will be present at the next meeting to testify about the condition of the house when purchased from Bristol Myers Squibb. Ms. Hirsh stated they are trying to find someone who is still with the company; however, the historic architect was involved with the project at that time, not an employee but can speak out the condition. Ms. Hirsh is not sure if she will have a representative at the next meeting to speak on the condition of the home when purchased.

Public Questions:

Ed McDonald, Chairman of the Historic Preservation Committee. The R.S. Means tends to be very high way to come up with numbers so do you have another way of coming up with numbers and have historical experience with those numbers in relation to how they compare; if they do construction management so the firm does not have construction background; is there an estimate on what the property would be worth if a renovation was done; a structure could be designed and the house could not be renovated; spoke about the numbers on the estimate

Mr. Brokenshire answered they use that as a guideline to give clients a budget; the firm does not have construction management background; this is what the cost estimate is showing that it could be fixed but is it feasible to really do it at this cost; the item costs could go up for historical costs.

Witness #2: Richard Carabelli gave his educational background.

Break: 8:23 pm to 8:37 pm.

Mr. Carabelli discussed his Appraisal Report, dated written April 6, 2016 and date of Valuation March 30, 2016. The existing dwelling, outbuildings, and site improvements are renovated and brought up to safe conditions and current building code. As of March 30, 2016 the property assuming it was renovated and brought up to code would have a market value of one million five hundred twenty five dollars.

He referred to Page 5 of his report (summary of important facts and conclusions). He inspected the property on January 13, 2016. The property was acquired in May 1996 by Lawrenceville Realty Company which is Care One from Bristol Myers Squibb, Page 20.

He referred to Page 22 regarding the 2015 tax year. There was a revalue in 1994 and found the field inspection notes from November and December of 1993 which is prior to Care One taking the title and the note was the condition of the property inspected interior and exterior layout to be fair. It considered the net condition of the property with a depreciation of the property to be 61%. The revalue company considered at that time in December of 1993 was that the improvements were approximately 39% of their cost new.

He referred to Page 23 with regard to the description of the property with the estimated repair costs. Page 24 describes the land, the building and structures if improved. Mr. Carabelli referred to Page 37 thru 48 of comparables. Page 50 is the similarities and dis-similarities of the comparables to the subject property with the summary with the summary and value conclusion, page 51. The market value based on the property renovations is \$1,525,000.00.

Mr. Slauch asked Mr. Carabelli questions regarding his report. Mr. Schmierer referred to Page 26 of his report the site improvements were observed to be in good physical condition and questioned what those items were. Mr. Carabelli answer was as "restored". The board members were discussing about fixing the house and selling it that it would still make an investment on what they bought it for.

Mr. Kremer asked if he did any historical significance in the appraisal of the house. Mr. Carabelli stated yes and also in the comparables.

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The floor was opened to the public for questions to Mr. Carabelli. Mr. McDonald commented that the engineer stated the house was 8,000 sf and the report was stating it is less, what is the accurate number. Mr. Carabelli used the existing footprint measuring from the outside (not porches) and it is gross living area above grade, just the residence. Mr. McDonald would like to have the square footage discussed at the next meeting. Ms. Kraemer asked how he measured and the tax records were used.

Ms. Hirsch stated this will be done for the next meeting of June 15, 2016. Mr. Schmierer stated a letter of consent is needed to extend this application to June 15, 2016. The Board should vote to continue this hearing and no notice is required.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 9:04 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,



Susan Snook

Recording Secretary

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MINUTES APPROVED: _____

4/20/16