

The Easton Planning Commission met on Wednesday, May 7, 2014 at 6:30 p.m. in City Council Chambers, Alpha Building, One South Third Street, Easton, PA 18042. Planning Commissioners Charles Elliott, Robert Sun, Bonnie Winfield, Ronald Shipman, William Heilman, and Mia Hatzis were in attendance. The following Planning & Codes staff members were present: Director of Planning & Codes George Kinney, Chief Planner Carl Manges, and Planner I Mike Handzo. City Solicitor Joel Scheer was also present.

Mr. Elliott called the meeting to order at 6:32 p.m.

The agenda was approved as presented.

Mr. Shipman moved, with Ms. Winfield seconding, that the minutes of the April 2, 2014 meeting be approved as presented. The motion passed unanimously.

Privilege of the Floor. No members of the public wished to address the Commission.

337 Cattell Street – Special Exception. Mr. Manges read that the applicant, Karen O'Brien-Maynard, has proposed to establish a D6 – Professional Services use (Counseling Service) in a vacant first-floor commercial space at 337 Cattell Street. The commercial space, which was previously utilized as an insurance office, is located in a mixed-use building that also contains one (1) apartment unit. This property is located in the College Hill Zoning District, Block Class C, where Professional Services uses are not permitted per Article XII §595-55. However, 337 Cattell Street is also located in the Street Corridor Enhancement Overlay District, where Professional Services uses are permitted by Special Exception per Article XXIII §595-126.

A conversation with the applicant, Karen O'Brien-Maynard, on April 3, 2014, revealed the intent to establish the "College Hill Counseling Services" in a vacant first-floor commercial space at 337 Cattell Street. The applicant indicated she is a licensed professional counselor, proposing to offer counseling sessions to individuals and families. The applicant would be the only employee associated with the business, and only one counseling appointment would take place at a time. Hours of operation would be flexible to accommodate clients' schedules. The Counseling Service would generally operate from 9:00am – 7:00pm Monday – Friday, with some early evening appointments. Some Saturday morning appointments would also be scheduled on days without Lafayette College home football games. The applicant indicated that there is not off-street parking available.

Mr. Manges reported that the proposal met the criteria for Special Exceptions outlined in Article XXXVIII §595-251. Therefore, he communicated that staff advocates Planning Commission's recommendation to the Zoning Hearing Board that the request for Special Exception for the proposed D6 – Professional Services use be granted.

The applicant, Karen O'Brien-Maynard, was in attendance. The Commission had no questions for her.

Mr. Heilman moved, with Mr. Shipman seconding, that the Easton Planning Commission recommend to the Zoning Hearing Board that it grants a Special Exception request with conditions to Karen O'Brien-Maynard for a Professional Services use at 337 Cattell Street. The motion passed unanimously.

1000 Bushkill Drive (Deiter Brothers) – Special Exception. Mr. Manges read that the applicant, The Deiter Family L.P., has proposed to expand an existing F8 – Warehouse and Storage use on their facility at 1000 Bushkill Drive by installing a 30,000-gallon pressurized storage tank for propane. The proposed steel tank would be cylindrical in shape, with a horizontal diameter of approximately 64 feet and a vertical diameter of approximately 11 feet. The applicant has provided staff with vendor-prepared specifications, which propose the installation of a 30,000 gallon tank compliant with American Society of Mechanical Engineers standards, as well as associated piping, fittings, and truck loading equipment. The tank's safety equipment would include a nitrogen-operated emergency shutoff system, pressure relief valves, and safety decals and signs.

The proposed tank's site is currently surrounded by a chain-link fence. The applicant has proposed to remove this fence, so fuel delivery trucks could pull directly up to the tank for loading. The tank apparatus would be surrounded by bollards to protect it. This site features nine (9) permanent storage tanks anchored and elevated on scaffolding, holding a combined total of 105,020 gallons of heating oil. Smaller portable storage tanks, fuel pumps, fuel trucks, heavy equipment, a garage, and office spaces are also located onsite.

1000 Bushkill Drive is located in the River Corridors and Other Green Areas Zoning District, Block Class C, where the proposed Warehouse and Storage use is not permitted per Article XVII §595-88. However, this proposal also represents an expansion of a legal nonconforming use. In keeping with the requirements of Article X §595-46(D), the Zoning Administrator has determined that the expansion of the nonconformity is confined to the original nonconforming parcel and complies with all applicable dimensional criteria.

The Bushkill Creek adjoins the applicant's property, and according to Federal Emergency Management Agency (FEMA) Floodplain Map 42095C0279D, the site is within the 100- and 500- year floodplain. The proposed location of the tank is approximately 43 feet from the creek's bank, and is located outside the boundary of the floodplain. However, with portions of the property located in both the FEMA-defined 100- and 500- year floodplains, the entire site is subject to the requirements of the Flood Hazard Overlay District. Therefore, this proposal requires Special Exception approval for a Use in a Floodplain per Article XXV §595-143(B)(3).

Staff spoke to the applicant on multiple occasions: during a site visit on April 11, 2014, during a phone conversation with applicant's representative Gerry Weslowski on April 14, 2014, and during phone conversations with Jim Deiter on April 22, 25, and 29, 2014. Through these conversations, staff learned that the applicant intends to anchor the tank using a combination of molded concrete pillars and metal straps. The pillars would be buried to a depth of 52 inches below ground level, keeping them below frost depth. The tank will be secured with metal straps to the exposed top of the pillars, and the tank would be raised to an elevation of 205 feet 2 inches. This elevation would be 2 feet 2 inches above the site's base flood elevation of 203 feet. Mr. Deiter and Mr. Weslowski indicated staff will monitor the property during potential flood events. The applicant also reported that no floodwaters have ever reached the area of the proposed tank anytime during the last four flood events in the City of Easton.

Mr. Manges indicated that propane is a petroleum product, and that based on the provisions of Article XXV §595-144(F), "...within any identified floodplain area no permit shall be issued nor shall any variance be granted for...any new or substantially improved structure which will be used for the production or storage of...petroleum products..." Therefore, he communicated that staff advocates Planning Commission's recommendation to the Zoning Hearing Board for denying a Special Exception request to The Deiter Family, L.P. for a Use in a Floodplain at 1000 Bushkill Drive. Mr. Manges acknowledged the complexity of the Special Exception request, though, as the tank's specific site would be outside the floodplain.

Mr. Elliott asked staff to clarify the extent to which the Flood Hazard Overlay District covers properties within the floodplain. Mr. Manges reported, in previous practice, its provisions had been applied if buildings on a particular site extended into floodplain boundaries. Mr. Kinney acknowledged the Zoning Administrator had consistently been extending the boundaries of the overlay district to property lines, and shared his interpretation that the ordinance's language did not require floodplain provisions to be enforced beyond the specific boundaries of the floodplain.

Mr. Sun suggested the propane tank could pose a significant hazard to nearby residences in the event of an explosion. Mr. Elliott shared an Environmental Protection Agency statistic that the explosion of a 30,000 gallon propane tank would be capable of shattering windows within a 2,000 foot radius. Mr. Scheer and Mr. Elliott suggested that the Commission's primary concern may be to determine if the tank represents a reasonable expansion of an existing nonconforming use.

A contingent representing the applicant was present, consisting of Jim Deiter, Vice President of Deiter Brothers, and applicant's counsel Steven Goudsouzian, Esq. Mr. Goudsouzian shared his opinion that, since the applicant's proposal had already been deemed an expansion of a legal nonconforming use by the Zoning Administrator, the applicant should be entitled to pursue the use without Planning Commission approval. Mr. Elliott disputed this conclusion, suggesting that the Zoning Administrator's referral of the proposal to the Commission implicitly indicated that no judgment of reasonableness of the expansion of the prior nonconforming use had been made. Mr. Sun suggested that Mr. Goudsouzian's argument did not acknowledge the new level of risk introduced by the proposed propane tank. Mr. Scheer indicated the expansion of the applicant's existing nonconformity raised new concerns not present with the current use, and stated that the Commission would examine security issues of the proposed use if it was entirely new. Mr. Shipman requested that the Commission explicitly communicate its concerns about risks associated with the proposed use to the Zoning Hearing Board.

Mr. Elliott stated that the Commission will take all Special Exception criteria into account when floodplain considerations trigger a Special Exception review. He suggested the addition of several conditions to the staff

draft resolution for denial, indicating that the Planning Commission had deemed the proposal was not a reasonable expansion of a nonconformity; that the propane tank could pose hazards to surrounding uses; and that the applicant had not proven compliance with Special Exception requirements.

Mr. Shipman moved that the Easton Planning Commission recommend to the Easton Zoning Hearing Board that it denies a Special Exception request to The Deiter Family L.P. for a New Use in a Floodplain on grounds including the conditions proposed by Mr. Elliott. Mr. Sun seconded the motion, which passed unanimously.

Mr. Elliott declared a recess at 7:54 p.m., and called the meeting back to order at 8:06 p.m.

34 – 36 South 14th Street – Lot Consolidation and Special Exception. Mr. Manges read that the applicant, Randy Bentley / South 14th LLC, proposes to consolidate two parcels into one located at 34 – 36 South 14th Street. Currently, each lot contains an A5 – Two-Family Semidetached Dwelling. The proposed lot consolidation will create one A7 – Multifamily Dwelling with four (4) units. There are no other changes or improvements to the site being proposed with this application. 34 – 36 South 14th Street is located in the West Ward Zoning District, Block Class C, where the proposed Multifamily Dwelling use is not permitted per Article XV §595-75. However, Multifamily Dwelling uses are permitted by Special Exception per Article XV §595-76. The Zoning Administrator has indicated that this application will require a variance for dimensional criteria.

Mr. Manges reported that the proposal met the Preapplication Requirements of Article IV §520-36, the Subdivision and Land Development Plan criteria of Article IV §520-37, and the criteria for Special Exceptions of Article XXXVIII §595-251. Therefore, he communicated staff's recommendation that the Easton Planning Commission grant conditional final approval of the plan and recommend to the Zoning Hearing Board that the request for Special Exception for the proposed A7 – Multifamily use be granted.

The applicant, Randy Bentley, and architect Steven Glickman were in attendance. Mr. Shipman inquired about the applicant's motivation to join the two homes. Mr. Bentley described his plan as the most feasible means of bringing his property into compliance with items noted in a City Buyer Notification Inspection.

Mr. Heilman moved, with Mr. Shipman seconding, that the Easton Planning Commission recommend to the Easton Zoning Hearing Board that the request for Special Exception be granted, and grant conditional final approval of the submitted plan titled, "34-36 South 14th Street." The motion passed unanimously.

Floodplain Ordinance Update. Mr. Manges indicated he had attended a Floodplain Forum at Nurture Nature Center, where he learned that the Federal Emergency Management Agency (FEMA) would be issuing new floodplain maps in July. He reported that all floodplain ordinances in Pennsylvania required re-examination as a result, and stated that the City would need to update its ordinance to match FEMA regulations by July 16 to retain its flood insurance eligibility.

Mr. Kinney discussed a draft of an updated ordinance, and briefly summarized the differences between the City's current floodplain ordinance and this proposed ordinance. Mr. Elliott discussed several technical matters, including the codification of the ordinance and floodproofing requirements for substantial improvements to existing structures, with staff. He requested that staff provide the Commission with further information to aid in their consideration of the revised ordinance.

Comprehensive Plan Rewrite Update. Mr. Manges reported that Urban Matrix held a public meeting with City Council in April, and discussed Urban Matrix's development of a Comprehensive Plan website. Mr. Kinney indicated the Comprehensive Plan would include strategies to strengthen neighborhood connections and accommodate "temporary urbanism" uses.

As there was no further business, the meeting was adjourned at 8:49 p.m.