

NORTH EAST BOARD OF APPEALS-
North East Town Hall / 106 South Main Street
Thursday, June 22, 2017
7:00 P.M.

Chairman Gabrielle Oldham called the meeting to order at 7:00 P.M. Present for the meeting included members, Marian Martino, Peg Hardin, Sonny Tenney, S.J. Anderson and Raymond Mitchell. Also in attendance were Melissa Cook-MacKenzie, Town Administrator, Betsy Vennell, Director of Planning, Lisa Rhoades, Planning and Zoning Assistant and Dennis Clower, Esquire.

-MINUTES-

May 25, 2017

Mr. Mitchell made a motion to approve the May 25, 2017 minutes with a minor correction. Mrs. Martino seconded the motion and the motion was approved by all.

-COMMENTS FROM THE PUBLIC-

None.

-OLD BUSINESS-

None.

-NEW BUSINESS-

Public Hearing

Chairman Oldham opened the Public Hearing at 7:00 P.M.

1. Case A-2017-04-SE: A Special Exception application has been filed by Jacob Tome Institute, 581 South Maryland Avenue, North East, Maryland 21901. Applicant proposes to obtain a special exception to permit an expansion of the existing use. Also found on Tax Map 31; Parcel 0354. Zoning District: R-1, Single Family Residential.

2. Case A-2017-05-V: A Variance application has been filed by Jacob Tome Institute, 581 South Maryland Avenue, North East, Maryland 21901. Applicant proposes to obtain a 12 feet height variance on a proposed gymnasium. Also found on Tax Map 31; Parcel 0354. Zoning District: R-1, Single Family Residential.

Chairman Oldham stated the North East Board of Appeals would like to hear Case A-2017-04-SE and Case A-2017-05-V together as they are both for the Jacob Tome Institute. However, the board will vote and make a motion on each case separately.

Kim Dacey, A.S., CCR, court reporter, swore in all those who would testify at the hearing.

Mr. Richard Rand, representing the Jacob Tome Institute (Tome School) and Mr. Scott Dillow, Dillow Associates Architects, 1750 Cloverton Drive, Columbia, Pennsylvania were present to present the variance.

Chairman Oldham confirmed with Mr. Dillow that he would like the application to be part of the record and Mr. Dillow replied yes.

Mr. Dillow stated the Tome School is seeking a height variance of 4 feet for the proposed gymnasium. Mr. Dillow explained they would like to match the existing buildings height of the 38 ½ feet. Mr. Dillow displayed architectural designs showing the proposed addition and indicated where the addition connects to the existing building. Mr. Rand reported the existing gymnasium also doubles as an auditorium and the roof is too low for volleyball which is one of the reason for the request of the height variance.

Chairman Oldham inquired if the addition is lower than the existing building as it appears on the drawings. Mr. Dillow responded no and reported that all of the building materials will be the same as on the existing school.

Mr. Dillow reported that there is parking currently located in the proposed gymnasium site. There will be parking spaces added along the upper drive and on the side of the building to replace the removed spaces. Mr. Dillow also reported they will be eliminating the existing car loop and will be lowering the grade of the bank to install a new car loop. There will also be some new landscaping but where it will be installed is yet to be determined.

Mrs. Vennell reported that the majority of the original school was built within the county however, the Tome School needs a Special Exception to bring the use of a school into compliance with the North East Zoning Ordinance.

Ms. Vennell reported that the Planning Office did not receive any comments regarding the two cases. Mrs. Vennell stated that Tome School has been working with Cecil County Public Works regarding storm water management requirements. The applicant will need to receive approvals from all agencies prior to the Planning Commission granting final site plan approval. Mrs. Vennell reported that the Planning Commission forwarded a recommendation dated June 7, 2017 to the Board of Appeals for approval of the use of a school, conditioned on a letter from Betsy Vennell dated May 24, 2017.

Case A-2017-04-SE: Special Exception for the use of a school

Mr. Mitchell made a motion to approve Case A-2017-04-SE with the conditions stated in the recommendation letter dated June 7, 2017 from the Planning Commission. Ms. Martino seconded the motion and the motion was approved by all.

Case A-2017-05-V: Height Variance for a gymnasium at the Tome School

Mr. Mitchell made a motion to approve the height variance of four feet. Ms. Hardin seconded the motion and the motion was approved by all.

3. Case A-2017-03-SE: Special Exception application from Lynn Bollinger, 36 Blossom Lane, Elkton, Maryland. Applicant is requesting a special exception for the purpose of obtaining an on premise alcohol beverage license for beer, wine and liquor. Subject property: 510 South Main Street, North East, Maryland; Also known as parcels 421 and 587; Tax Map 401. Property owner EJP, LLC, 929 West Pulaski Highway, Elkton, Maryland. Zoning District: V-C, Village Commercial.

Ms. Kim Dacey, A.S., CCR, court reporter swore in all those who would testify.

Chairman Oldham confirmed the applicant would like the application to be part of the record and Ms. Bollinger replied yes.

Attorney Jay Emery, Esquire, Baker, Thomey and Emery, Elkton, Maryland reported that Lynn Bollinger, applicant, 36 Blossom Lane, Elkton, MD 21921, is seeking a special exception for obtaining an on premise alcohol beverage license for beer, wine and liquor to be served at 510 South Main Street. Ms. Bollinger stated that she would like to open a restaurant and serve alcohol. Ms. Bollinger requested to be open between 8:00 A.M. to 11:00 P.M. Ms. Bollinger explained she does not plan on opening at 8:00 A.M. at this time because she does not want to compete with Chef's Kitchen, a restaurant located on Pulaski Highway where she currently works serving the breakfast clientele, however, noted that may change in the future. Attorney Emery stated that Ms. Bollinger would like to close/lock the door at 11:00 P.M. Ms. Bollinger added that when she closes each evening, she has an hour before everyone would be required to exit. Ms. Hardin inquired if someone entered the business at 10:45 P.M. and wanted to order more food or a drink after 11:00 P.M. would she still be served. Attorney Emery clarified that no new customers would be permitted to enter the business after 11:00 P.M.

Attorney Emery reported that music from the restaurant will not be heard by any adjoining neighbor after 7:00 P.M. Sunday thru Thursday and 9:00 P.M. Friday and Saturday. Ms. Hardin inquired what type of music would be played outside and Ms. Bollinger replied acoustical music.

Chairman Oldham inquired if Ms. Bollinger was planning on opening a bar, as bars are not permitted in the "Village Commercial" zoning district. Ms. Bollinger stated she would like to be known as a restaurant with a bar not a bar that serves food. Ms. Bollinger added that she plans to serve a similar menu to Chef's Kitchen but not identical. Ms. Hardin inquired what the proposed name would be. Ms. Bollinger replied "Snatchers Creekside Grill", however, the business license is filed under the name "Snatchers Creekside Bar and Grill".

Ms. Anderson inquired if Ms. Bollinger had plans for remodeling and inquired how she plans to handle rowdy customers. Ms. Anderson is concerned this will become an

after-hours bar. Ms. Bollinger stated she will not be remodeling and that she would like to open a restaurant that serves alcohol and does not intend to draw a rowdy crowd. Attorney Emery stated that the business will be run by an experienced manager and staff.

Mr. Eric Polanski and Mr. Richard Polanski, EJP, LLC, 929 West Pulaski Highway, Elkton, Maryland, property owners, stated they had interviewed many possible tenants for this business and they have full confidence that Ms. Bollinger is capable of opening and running a successful business at this location. Mr. Polanski stated that Ms. Bollinger has a proven track record of managing other successful restaurants in the area and a clean record with the Cecil County Liquor Board. Ms. Bollinger stated that the lease has been prepared, however, the signing of the lease depends on the verdict of Board of Appeals hearing.

Ms. Doreen Casimir, a resident of Victoria Park Apartments, North East, Maryland, an adjoining property to 510 South Main Street, stated that she and other residents are looking forward to the proposed restaurant and stated that she appreciates the music heard from her balcony.

Ms. Vennell reported that the Planning Office has not received any comments from the public regarding this case. Mrs. Vennell read the recommendation, dated June 6, 2017 from the Planning Commission, to the Board Appeals into the record:

1. Extended hours of operation: Sunday through Thursday shall be limited from 8:00 a.m. to 9:00 p.m.
2. Extended hours of operation: Friday through Saturday shall be limited from 8:00 to 11:00 p.m.
3. Music from the restaurant shall not be audible to any adjoining property past 7:00 p.m. Sunday through Thursday.
4. Music from the restaurant shall not be audible to any adjoining property past 9:00 p.m. Friday through Saturday.
5. If the Planning Office or North East Police Department receives three (3) valid complaints regarding the subject business, the applicant and the owner shall be required to return to the next scheduled Planning Commission and Board of Appeals meetings to re-evaluate the allowance granted for extended hours.
6. The name and/or sign of the restaurant shall be prohibited to contain the names "Bar", "Pub", "Tavern" or "Sports Bar", as those are not permitted uses within the "VC" Village Commercial Zoning District.
7. The applicant(s) shall be required to return to the Planning Commission and Board of Appeals on an annual basis, beginning one year from the date of opening, to review the ability to continue the extended hours of operation.

Mr. Mitchell inquired whether the Board of Appeals could consider just the beer and wine license. Chairman Oldham stated that Ms. Bollinger is a new applicant and the Board should give the applicant the benefit of the doubt. In addition, one of the

recommended conditions from the Planning Commission was to bring the applicant back in one year to review how the business is being conducted.

Ms. Hardin stated her concern of the hours of operation and how complaints made to the Town would be handled. Ms. Vennell replied that if a complaint was received, the Planning Office would call the applicant to discuss the issue. Chairman Oldham thinks the wording of the conditions should be modified to clarify the hours. Ms. Anderson inquired if this business was transferred to a new owner would the special exception travel with it. Ms. Vennell reported that the special exception is for the address 510 South Main Street not the business owner. Mrs. Vennell reported that the Board of Appeals had similar conditions with the previous business at this location. However, after several years the Board of Appeals determined that it was no longer necessary to review this business on an annual basis. Unfortunately, trouble began occurring at the establishment during the late evening hours but the Board of Appeals had no recourse.

Ms. Martino made a motion to approve the on premise beer, wine and liquor license with the following conditions:

1. Extended hours of operation Sunday through Thursday shall be limited from 8:00 A.M. to 9:00 P.M. Clarifying that closing at 9:00 P.M. means no new patrons will be admitted after 9:00 P.M. and the existing customers will continue to be served.
2. Extended hours of operation Friday through Saturday shall be limited from 8:00 to 11:00 p.m. Clarifying that closing at 11:00 P.M. means no new patrons will be admitted after 11:00 P.M. and the existing customers will continue to be served.
3. Music from the restaurant shall not be audible to any adjoining property past 7:00 P.M. Sunday through Thursday.
4. Music from the restaurant shall not be audible to any adjoining property past 9:00 P.M. Friday through Saturday.
5. If the Planning Office or North East Police Department receives three (3) valid complaints regarding the subject business, the applicant and the owner shall be required to return to the next scheduled Planning Commission and Board of Appeals meetings to re-evaluate the allowance granted for extended hours.
6. The name and/or sign of the restaurant shall be prohibited to contain the names "Bar", "Pub", "Tavern" or "Sports Bar", as those are not permitted uses within the "VC" Village Commercial Zoning District.
7. The applicant(s) shall be required to return to the Planning Commission and Board of Appeals on an annual basis, beginning one year from the date of opening, to review the ability to continue the extended hours of operation.

Ms. Hardin seconded the motion and the motion was approved by all.

4. Case A-2017-06-V: A Variance application has been filed by Tammie J. Golden, 408 Rolling Mill Road, North East, Maryland 21901. Applicant proposes to obtain a 2 feet height variance on a proposed rear yard fence. Also found on Tax Map 400; Parcel 401. Zoning District: "R-1" Single Family Residential.

Ms. Dacey swore in all those who would testify.

Chairman Oldham confirmed Ms. Golden would like her application as part of the record.

Ms. Tammy Golden stated she has lived at 408 Rolling Mill Road, North East, Maryland since 2001 with her husband, who just recently passed. Ms. Golden stated her daughter and grandchildren are currently living with her as well as her dogs. Ms. Golden reported there is a 12 foot Town owned right away adjacent to her rear property line and people often walk up and down the right away. Although Ms. Golden has a 4 foot chain link fence, strangers reach over the fence and torment her dogs and she is afraid someone will get bit or injure her dogs. Ms. Golden also stated she is afraid for the grandchildren to be in the rear yard as people have climbed over her fence and into her yard. The property is sloped and over the years has eroded. Ms. Golden displayed an image showing a six foot fence at a neighboring property which had been added onto the bottom to maintain the site line. Ms. Golden stated she wants to protect her grandchildren, her daughter, dogs and herself by installing a 6 foot tall fence. To maintain the site line across the rear of the property the fence would graduate from six feet at one corner to be ten feet tall in the other corner, which is why a two feet variance is being requested. Ms. Golden displayed an image of the fence she would like to install stating that it would match other fencing on her side yard.

Ms. Golden stated she had called the North East Police Department previously regarding the trespassers and she was advised to install "No Trespassing" and "Beware of Dogs" signs. Ms. Golden reported she installed these signs however, they were torn down the same week. Ms. Golden presented a letter from a neighbor Mr. Davis, stating he had no objection to the installation of this fence.

Mr. Mitchell inquired what the material of the existing fence was. Ms. Golden replied it is a 4 feet chain link fence and the proposed fence would be wood stockade with a lattice top installed (inside) across the rear property only. Ms. Vennell reported the Planning Office did not receive any comments regarding this case.

Ms. Martino made a motion to approve the two foot height variance for a rear yard fence. Mr. Mitchell seconded the motion and the motion was approved by all.

Chairman Oldham closed the public hearing at 8:02 P.M.

-REPORTS-

None.

-MISCELLANEOUS-

Chairman Oldham welcomed Ms. Anderson as a new alternate Board of Appeals member. Ms. Martino reported she has submitted her resignation effective July 1, 2017 because she is moving out of the Towns Corporate Limit.

-NEXT MEETING-

July 27, 2017

-ADJOURNMENT

Ms. Martino made a motion to adjourn at 8:05 P.M. Ms. Hardin seconded the motion and the motion was approved by all.

Respectfully submitted:

Attest:

Lisa Rhoades
Planning and Zoning Assistant

Gabrielle D. Oldham
Chairman