

Board of Adjustment minutes for June 28, 2016

**Minutes are not verbatim**

**James Crellin, Chairman** - I called the 6/28/16 meeting of the town of Milton Board of adjustment to order at 7:00 PM let's begin with a roll call of members starting on my left

**Roger Thomson** – present

**Janet Turner** – present

**Brian Dolan** - present

**James Crellin** – present

**Steve Crawford** – present

**Shannon Carmean-Burton** - appearing for Seth Thompson town solicitor - present

**James Crellin, Chairman** - is there any or are there any additions or corrections to the agenda? Hearing none may I have a motion to approve the Agenda?

**Roger Thompson, Board Member** - Motion to approve as written

**Brian Dolan, Board Member** – second

**James Crellin, Chairman** - all those in favor aye opposed motion carried to approve the agenda as written

**James Crellin, Chairman** – Public Hearing this evening, the applicant Milton Park Center, LLC is requesting a variance of the Milton Town Code chapter 220 Zoning, Article VII Development Guidelines, § 220 – 42 Off-street Parking Requirements Subsection B to decrease the required number of parking spaces from 376 to 338. The property located at the intersection of Broadkill Road and Union Street further identified by Sussex County tax map and parcel number 235 – 14.15 – 68.01

**John Collier, Project Coordinator** - Mr. Chairman, if I may, I would like to open the public hearing with some introductory information. I like to begin by introducing the principals in this action, to your far left is Mr. Doug Liberman from Larson engineering representing his client the Milton Park Center. The gentleman in the center of the room is Mr. Ralph Larson, member the ownership group of Milton Park Center and the gentleman to your far right is Mr. George Cardwell representative from Pennoni Associates the Town's engineering firm. The reason we're convening this evening is the applicant in the course of site plan review indicated a need for reduced parking requirement. This plan was originally approved in 2009 by the planning and zoning commission. It has, however, exhausted all of his extensions and's was summarily sunset the applicant wanting to remain with an active plan was required to submit a new application for site plan review part of the requirements of the site plan review were to update all their outside agency approvals and because of a change in the town of Milton code. They were required to appear before the board of adjustment to request a variance of the parking requirement in the previous plan under the old code, planning and zoning commission had the ability to waive parking requirements. However, with the changes in the code that ability no longer exists,

therefore, that is why they are here. With that being said, I would like to turn the floor over to the applicant to state his case.

**Doug Liberman, Larson Engineering** - I believe Mr. Collier and Mr. Crellin, both have pretty much stated the bulk of the application. So we are going to get down to what we are proposing to do. We intend to add a 5800 ft.<sup>2</sup> building in the existing parking lot in front of the Food Lion portion of the center and in doing so we are utilizing an unused area of the existing parking and are able to eliminate additional impervious surfaces to the site. The addition of the proposed building would bring the requirement by code for parking to a total of 376 spaces. However, in reviewing the proposed work. There would currently be 338 available spaces. In considering where parking could be added to meet the requirements we determined we would be eliminating green space and generally putting parking where more than likely it would not be used, as the parking lot as it exists, is considerably underutilized. While we could possibly capture spaces to construct the additional required parking. It would probably create enough additional impervious surface to require redesign of the existing storm water system. Adding the additional parking would eliminate the green buffers between the site as it exists and existing residential neighborhoods. I was at the site earlier today and while I realize it was, not peak parking hours. There may have been one car parked in the area proposed for the new building. We're attempting to take a common sense approach towards resolving the parking requirements. To construct all of the required parking could be quite costly and create an economic hardship and add parking spaces that really don't make a whole lot of sense. We are talking about areas behind the center and along the side that offer little or no convenience to the users of the center.

**Unidentified board member** – What is to occupy the proposed building?

**Doug Liberman, Larson Engineering** – The proposed building could house either medical or commercial offices or retail space.

**Ralph Larson, owners group** – Originally five or six years ago, when this plan was originally submitted, we were working with Beebe Medical Center to establish medical offices and of course the economy tanked in all this fell by the way. Right now we're just trying to go through the approval process again and once that is completed, we will be able to market building and seek suitable tenants.

**Janet Turner** - Right now looking at this plan, it appears there will be parking spaces in front of the building, will there be access from the rear?

**Doug Liberman, Larson Engineering** – Right now we have not completely decided, there would be sidewalk completely around the building and handicap access in these locations making access from either side relatively safe for pedestrians. Additionally, there were some comments from Pennoni Engineering and we will be altering the plan slightly from what you have in front of you. WE are changing the alignment of the entrance slightly to make traffic flow better.

**Janet Turner** – Looks like a narrow building. Is that one medical office?

**Doug Liberman, Larson Engineering** - if you take a look at the plans and those three light lines and it is divided into three units of approximately 2000 ft.<sup>2</sup>

**Roger Thomson** – it's only one story?

**Doug Liberman, Larson Engineering** – Yes sir it is.

**Roger Thomson** – Its 38 feet high? I believe that is what it says.

**Doug Liberman, Larson Engineering** - The building on parcel B is that height on parcel A which is what we're here for. It is 25 feet.

**James Crellin** – how deep is that building?

**Doug Liberman, Larson Engineering** – I believe it is 30 feet by less than 200.

**James Crellin** – just for curiosity, what was a rationale in placing the building in that particular location?

**Doug Liberman, Larson Engineering** – setbacks were the key and the placement of the building.

**James Crellin** – another curiosity question, what are the heavy black lines on the plan?

**Doug Liberman, Larson Engineering** – if you mean these right here, they indicated a crosswalk, typically a handicap crosswalk.

**James Crellin** – thank you.

**Brian Dolan** – okay the bank is down here and up on top that's a new building and another parcel. Do we know if that parcel is approved to be developed?

**Doug Liberman, Larson Engineering** – that's part of the approval process that we're going through right now. That parcel stands on its own.

**Roger Thomson** – these 27 spaces along the top that's part of the other parcel.

**Doug Liberman, Larson Engineering** – no sir those are existing

**Roger Thompson** – got it.

**James Crellin** – so this building is taking up 19 parking spaces, is that correct?

**Janet Turner** – so they're losing 33 no 38 spaces?

**Stephen Crawford** – just to the bottom left of rectangular building, there appears to be a solid curbing right about in that area, exactly, I'm just curious why you do that, it seems to restrict the flow of traffic.

**Doug Liberman, Larson Engineering** – we are trying to adjust the traffic flow in this area.

**Stephen Crawford** – just a curiosity question.

**Doug Liberman, Larson Engineering** – I believe it's actually result of the planning comment from the first time we submitted plan. Not from Pennoni, but from the original time we came through planning and zoning.

**Stephen Crawford** – Okay, thanks. If I'm not mistaken you are adding parking for building one and you are taking parking spaces away because of building two. The net is what you requesting us to adjust.

**Doug Liberman, Larson Engineering** – well we're only plus one for the parking spaces on the front parcel and were at -38 for what we're doing on this parcel. We did not want to leave the south easterly parcel

blank because we didn't want to get a suggestion to put additional parking there since it is a separate parcel.

**Janet Turner** – don't you still have an empty parcel down the road.

**Doug Liberman, Larson Engineering** – Actually, if you orient the drawing this way you'll see that the bank is here. There's a proposed building here and then there's the main shopping center lot in the center.

**Janet Turner** – Oh I see, thank you.

**James Crellin** – Are there any other questions?

**Brian Dolan** – I guess I want to understand is our standard can vary this if it benefits the general welfare?

**Shannon Carmean-Burton** – yes

**Brian Dolan** - So if we don't know what the buildings is going to be, how does it benefit the general welfare?

**Doug Liberman, Larson Engineering** - were looking to address the need and trying to provide space for potential clients to serve the town citizens whether it be for office, medical office or retail anything which could cause a demand for the town to provide services, without providing a negative impact to the surrounding residents and citizens of Milton. We're putting the building in an area of the parking lot that is seldom if ever used, without creating additional strain on the existing storm water system or encroaching upon the residential neighborhood.

**Ralph Larson, owners group** – when we previously prevented this now expired plan, we were encouraged by the Planning and Zoning commission to reduce the amount of impervious surface. Under the old regulations, they were able to grant us a waiver for the parking. The plan has summarily expired and new regulations require that we seek a variance from the Board of Adjustment.

**James Crellin** – How does this fit in with the total requirement of square footage, and the number of parking spaces for general use required?

**John Collier** – I can answer that question, based on the square footage of the entire complex they are required to have the proposed number of 376 parking spaces. The additional building proposed eliminates 19 spaces the additional square footage of proposed commercial space generates the need for 376 spaces based on the formula of 1 parking space for every 200 square feet of commercial space. I would comment that while Mr. Liberman used the term hardship, I would consider this instance to be more of an exceptional practical difficulty as the additional parking needs based on the current formula would lead to greater impervious space which would only be available by adding what I would term as satellite parking. More impervious surface may require changes to the existing storm water facilities as well as infringe on the existing buffers between the site and surrounding residential neighborhoods. While meeting the parking requirement is possible it seems less than practical to do such in a parking lot which appears to already be underutilized.

**Janet Turner** – I have a question. A lot of people in Town are concerned about the general appearance of shopping centers and I know from past planning meetings these concerns about landscaping are well discussed. How does the proposed building affect whatever plans are and changes currently in place?

**Doug Liberman, Larson Engineering** – we will have to provide additional landscaping on the site in the curb islands that we will be creating as we re-align the parking lot.

**John Collier** – all of those questions about landscaping should be answered during the preliminary site plan review. Our task tonight is the potential parking waiver.

**Brian Dolan** – Mr. Collier you mentioned they're going to reduce this by 38 spots, you also mention this building, will require 38 spots.

**Doug Liberman, Larson Engineering** – with the newly proposed building. The total requirement would now be 376 spaces. We're asking for reduction of 38 spaces based on the inability to place any in good close proximity to the actual site proposed for the building.

**James Crellin** – That's based on the existing square footage correct and the code saying how many parking spaces are needed per square foot.

**Doug Liberman, Larson Engineering** – That is correct, sir.

**Roger Thomson** – the way I figured it the smaller building that they're putting in as got 5984 ft.<sup>2</sup> and by code. It's supposed to have 30 parking spaces, but it shows 49 at that particular location just like the other one says they're supposed to have 60 parking spaces, but they have 62 so they have two more on the other one. I've been trying to add them all up and I come up with 333 versus 338.

**Doug Liberman, Larson Engineering** – There are other spaces on the plan behind the building that make up that difference.

**Roger Thomson** – One of my questions is where does one parking space for 200 ft.<sup>2</sup> of space come from? Is that a national standard or is that a standard people are just using?

**John Collier** – that's the standard that the town of Milton chooses to use. It's not what you would call a national standard it varies from jurisdiction to jurisdiction.

**Doug Liberman, Larson Engineering** -what we are finding now is that some towns like New Castle County shopping centers are going to 4 ½ for 2000 square feet, some municipalities are one per 150 square feet, City of Dover uses 1 per 300 square feet, some even base it on net space versus total space to create a base number. I think one per 200 is catchall standard.

**Roger Thompson** – I checked Milford Millsboro, Georgetown and Lewes and all of them had the same standard one per 200 ft.<sup>2</sup>. My point is that all those communities are larger the Milton but we're still using the same standard. I have never seen the parking lot more than half full.

**Shannon Carmean - Burton** – So it's your opinion that the benefit to the applicant outweighs any detriment to the surrounding community. I believe you stated there is space available to come closer to meeting the parking requirements. However, if you utilize the space. It would cause additional impervious surfaces which would be unnecessary and therefore would be a detriment to the surrounding community.

**Doug Liberman, Larson Engineering** – yes

**Shannon Carmean - Burton** – It's an adverse effect, correct?

**Doug Liberman, Larson Engineering** – that's correct.

**James Crellin** – Are there any more questions?

**Shannon Carmean Burton** – Is this the minimum variance required in order to obtain relief?

**Doug Liberman, Larson Engineering** - yes

**James Crellin** – are we in a position to make a decision?

**John Collier** – Excuse me sir, but we must close the public hearing first and make the decision in the business portion of the meeting.

**James Crellin** – Is there anyone here in objection to the request for the variance? Seeing none, we will close the public hearing.

**James Crellin** – Do we need any more discussion?

**John Collier** – I would like to state for the record, the applicant did their due diligence I have in my possession all of the required proof of certified mailing and it's been properly advertised we received no comments either positive or negative via telephone, email or personal visit to town hall in regards this application.

**James Crellin** – Are we prepared to make a decision this evening?

**Stephen Crawford** – I vote for the applicant.

**James Crellin** – any particular reason.

**Stephen Crawford** – For the reasons stated, I think to cause additional paving and disruption to the surrounding neighborhoods is something that is not required considering I've been to the parking lot many times and seen the number of spaces not being utilized.

**Shannon Carmean Burton** – So you're making a motion to approve the variance application?

**Stephen Crawford** – Is that what Mr. Crellin asked for?

**Shannon Carmean Burton** – You should make a motion first.

**John Collier** – yes, that is correct.

**Stephen Crawford** – I make a motion to approve the variance application as presented.

**Janet Turner** – I second the motion.

**James Crellin** – All in favor say aye.

**Roger Thompson** - Aye

**Janet Turner** - Aye

**Brian Dolan** - Aye

**James Crellin** - Aye

**Stephen Crawford** - Aye

**James Crellin** – Opposed.

**James Crellin** – Motion carried.

**John Collier** – Ladies and gentlemen, we will be meeting next month to approve the minutes from this evening’s meeting. We will also be reviewing the document provided by Mr. Thompson regarding procedure for our meetings.

**James Crellin** – Do we have a motion to adjourn?

**Brian Dolan** – Motion to adjourn.

**Janet Turner** - Second

**James Crellin** - All in favor say aye

**Board – Aye**

**James Crellin** - Opposed.

**James Crellin** – Motion carried

Meeting adjourned at 7:29 pm