

A meeting of the Johnstown Planning Board was held on July 7, 2015 at 4:00p.m., in the Council Chambers, City Hall.

PRESENT:

Peter K. Smith	: Chairman
Fredrick Franko	: Board Member
Michael Gifford	: “ “
George Nicholas	: “ “
Terri Easterly	: “ “
Christopher Vose	: City Engineer
Brett Preston	: City Attorney
Bruce Heberer	: Fire Chief
Cathy A. VanAlstyne	: City Clerk

Also present was Council Member Helen Martin, Liaison.

Chairman Smith called the meeting to order.

Minutes of the June 2, 2015 meeting were approved with a motion from Mr. Nicholas and seconded by Mrs. Easterly. Motion carried.

PUBLIC HEARING – Arthur Schrum & Daniel Town, 128 W. Main St. – the project is for renovations to the building under the NY Main St. Grant Program. Chairman Smith opened the public hearing at 4:02p.m., to allow anyone from the public to speak. No one was present so the hearing was closed.

Mrs. Easterly made a motion to approve the project. Motion was seconded by Mr. Franko. Motion carried.

PUBLIC HEARING – Ted Leto, 605 S. Comrie Ave. – the project is to relocate used car lot and increase the number of cars from 40 to 80. Chairman Smith opened the public hearing at 4:05p.m. No one present wished to speak so the hearing was closed.

DISCUSSION: Mr. Franko stated he would vote to not allow and recommended the Board also vote to not allow. There are a number of regulations in the zoning, specifically about the continuation of a nonconforming use or changing a nonconforming use to a different nonconforming use. He referenced Section 22-1504 B, numbers 1 and 2, which states, a nonconforming use may be considered as complying with the use regulations in this Chapter contingent upon compliance with the following requirements: 1. No nonconforming use shall be expanded to occupy additional area of a lot than what existed at the time this Chapter was adopted. 2. No nonconforming use may be changed to a different nonconforming use. Mr. Franko has reviewed the original proposal for a used car lot.

Chairman Smith added that the Board received communication from the Fulton County Planning Board. They raised concerns about the wetlands and the heavy traffic area. The site plans submitted were not adequate and they suggested the project be denied.

Attorney Preston said, in addition to the section cited by Mr. Franko, he has concerns that the drawings submitted by the applicant are inadequate and he agrees with the County Planning Board that there is not enough information about the wetlands.

Mr. Nicholas said that if this application is denied the applicant has the right to resubmit. Chairman Smith said the application could be tabled. Mr. Franko has raised a legal issue on expansion in a nonconforming use.

Chief Heberer said they could go before the Zoning Board of Appeals for a Use Variance.

The drawings are not adequate in reference to the location of wetlands. There is no documentation. No stamped documents. Mr. Leto said that was all done in the early 70's. He couldn't put the sales lot there if it had not been approved by Army Corp of Engineers. The buffer zone was all filled in back in the 70's. Mr. Franko needs to see documentation that says this from a licensed professional surveyor or engineer. Mr. Franko will not approve in any case.

Chairman Smith said the question raised by Mr. Franko is a legal issue whether this is an expansion of a nonconforming use that violates the code. The next issue is can it be permitted with a Special Use Permit from the Zoning Board of Appeals. The Fulton County Planning Board denied the application so the Johnstown Planning Board would have to approve with a super majority vote to override the County.

Mr. Nicholas made a motion to table the application until after the applicant goes to the Zoning Board of Appeals and provides documentation of the designation of wetlands. Mr. Franko seconded the motion.

Mr. Franko said that if they allow the expansion the Board has the right to make additional requirements. Chief Heberer said the Zoning Board can add restrictions also. The Clerk will restore the application to the calendar after the Zoning Board meeting. It would also go back to the County Planning for their approval.

Motion to table was approved.

PUBLIC HEARING – Jim Skiff, addition to Udderly Delicious, 340 N. Comrie Ave. – Chairman Smith opened the public hearing at 4:21p.m. No one present wished to speak so the hearing was closed. It was noted that the Fulton County Planning Board had no comment.

Mr. Gifford made a motion to approve the project. Seconded by Mrs. Easterly. Motion carried.

Meeting was adjourned at 4:35p.m.

Respectfully submitted,

Cathy A. VanAlstyne
City Clerk