

**CLAYTON PLANNING BOARD
REGULAR MEETING MINUTES
JUNE 28, 2021**

The regular meeting of the Clayton Planning Board was called to order at 7:00 PM. Invocation was given and we had a Salute to the Flag.

SUNSHINE LAW

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notice with the Clerk of the Borough of Clayton.

ROLL CALL

Ayes: Abate, Branco, Culver, Fox, Miller, B. Saban, T. Saban, Thomas, Vondran

Absent: Bianco

APPROVAL OF MINUTES

Minutes not provided for the May 24, 2021 meeting

OLD BUSINESS:

None.

NEW BUSINESS:

Clayton Healthcare, LLC/Samir Talati – N. Delsea Dr. & W. High St., a/k/a W. High St. a/k/a Block 710, Lots 7, 8, & 9 – Use Variance

The applicant's attorney, Dale Taylor, Esquire, spoke on his behalf. Wanted to make sure that the Class I and III members were off. He represents the applicant, Clayton Healthcare, LLC. He believes everything was submitted all of the necessary documents and that the board has jurisdiction to hear the matter. John Alice, Solicitor, acknowledged that the board has jurisdiction to hear this matter. Since this is a use variance, the board has reconstituted itself as a zoning board. If the matter is approved tonight, they will be back for site plan approval.

Mr. Taylor advised that the principles for Clayton Healthcare, LLC, Samir Talati, was not available to attend tonight's meeting as he was under the weather. Hopefully we will be able to proceed. Greg Simons, P.E. was in attendance and sworn in along with Paul Breier, PP by John Alice, Board Solicitor.

Dale Taylor, Esquire advised that this is a use variance, to permit a mixed use for a medical facility, residence, and parking at block 710, lots 7, 8 & 9. The zoning is split between the Central Business District and behind that is the RC district. Behind Lot 9 is a residence that is there. The applicant is intending to keep that as a residence. There are

all residences on West High St. The applicant wants to rehab the front two stores for accommodation of retail and medical.

Residents in the audience could not see the plan. They were told they could get up and look at it. Mr. Taylor indicated again that they are looking to put in retail, a pharmacy, or a doctor's office. It's a combination of these three uses.

Greg Simonds, P.E. went over the preliminary plan. There is existing access off of Delsea Drive which is going to stay which is a one-way access. Also one-way access off of West High Street to access the pharmacy building. Parking in the front on the corner of Delsea Drive and West High Street and parking in the rear. The plan will show landscaping along the rear to block the headlights and/or possibly a fence. The existing dwelling is going to remain. An existing curb cut is on West High Street and that will remain as a two-way access. The important thing to point out is that you won't be able to come out on Delsea Drive because of the speed of the motorists and sight issues. Mr. Taylor was referring to the plan to show the residents. Melissa Fox questioned about the exits. Bill Culver asked about two-way traffic on the parking lot. Dale Taylor responded that there will be a sign posted No Exit. Mr. Culver asked if the people will be expected to make a u turn in the parking lot. They said no but the circulation hasn't really been worked out yet. Bill asked about the 29 parking spaces. Mr. Simonds answered that it is provided by the Borough's Ordinance. This is just a concept and they will have a thorough site plan when they come back. Mr. Culver also asked if the retail is going to be medical retail or another Dollar Store. Mr. Taylor responded it is not going to be another Dollar Store. The retail they are looking at is a doctor or dentist office.

Melissa Fox asked about the traffic in the space. They are going to try and make it professional retail. Brief discussion took place about traffic, etc... This will be more in detail when they come back for site plan.

John Alice added that he and Mr. Taylor spoke and they are looking to keep lot 9 as a separate lot as they are keeping the residence. Lots 7 and 8 could possibly be combined/consolidated for the other uses. The parking lot will be consolidated and will be supportive of this project and not parking for the municipality, etc... it will be an accessory use to the buildings here. They want to try and make the retail related to the doctor's office. If a Dollar General was put in, there would be too much traffic. We also have the obligation to provide the positive/negative criteria which Mr. Simons addresses in his letter.

This development would provide open space, adequate light, air. It's not congested. It's a free flow. There is no conflict with any neighboring State, Municipality or County. It will benefit residents because of the use more than enough space for parking and access to ingress/egress. They will use creative development techniques when it's designed. They will be working with the Borough's professionals. This is something that is pleasant to the eye and nice for the community. That's important to us and the to the owner. He wants a first class operation.

In regards to the negative criteria, there will be no substantial detriment. To the contrary, it will serve as a very positive mixed use. We don't see a substantial detriment in regards to parking. Greg Simons, P.E., added that he does not see any substantial detriment. It is currently an unsafe/abandoned site. We want to make it a safe site with usable buildings and aesthetics to the community.

Dale Taylor advised that basically now it is an abandoned property. I'm sure you would like to get that taken care of.

Melissa Fox indicated yes they would and also asked if we are talking behavioral medical? Is this something we can talk about now or should talk about? Dale Taylor responded that they aren't that far yet. He added that Clayton has two behavioral centers now and doesn't think they will be doing a third. He doesn't think this is a good location for something like that. Dale Taylor advised that if it was a behavioral health type center or marijuana which is popular, they would have to come back before the board. John Alice responded that this is a use variance and if the board doesn't want that then they would tell them they can't have it. If you have a hard no on something, then it's a hard no. Dale also advised that they will be fine tuning it and communicating with the sub-committee. Joe Abate also added that they will work it out in the sub-committee and make sure it meets Clayton's standards.

Joe Abate advised that he has a concern of the amount impervious surface and is it going to drain to lot 9 where is it going to drain to. Mr. Simons responded that it's currently flat. The topography hasn't been done yet and the existing elevations are not done yet. We are proposing approximately 3,900 sq. ft. of additional impervious coverage. Regulations usually kick in at State level when you get over 5,000 sq. ft. We can talk to the Borough Engineer or Planner about providing some accommodation on site to control some of the stormwater from going onto another property. The stormwater route was not designed yet. Joe Abate added that he does not want any encroachment of water onto another property to happen.

Paul Breier, PP added to the stormwater conversation that you cannot increase runoff to any adjacent property. It's not allowed. I'm assuming they are going to get as much runoff as possible to the street as possible. That upper left hand corner is the perfect spot to have a little basin if it's needed after the calculations are made. There may be some other grass areas up front where they can have some swales to catch it. Mr. Breier acknowledged the letter from Greg Sawyer, Public Works Director that water/sewer is available. There is no problem with this particular use and that additional connections or fees may apply and will be determined when more detailed plans are submitted.

The existing building is an eyesore. The one in the rear is coming down and the house is dilapidated. Do you know have any information on the commercial/retail building that is going to stay does he have any feel for the building exterior. Is he gutting the siding, etc... Dale Taylor advised that is has been discussed but nothing has been decided. The architectural will be presented to sub-committee.

Joe Abate asked what the applicant is going to do with the house. Dale answered that it's in fairly good shape. He's going to renovate it and rent it out as a single family home. Paul asked about lot 9 where the house is that it's going to have some parking for the other use and maybe the residents which was previously discussed briefly. If you sold that as a private lot then you would have to have easements on it for parking and stormwater. It's better not to sell it because he will need cross-easements and problems with adjacent owners.

Paul Breier, P.P. referenced his letter dated June 23, 2021 on page two he addressed the RC Zone. A pharmacy, an office, medical use, and retail are not permitted as a principal or accessory use in that zone. Whatever what three it is of those combinations they still require a use variance. He acknowledged that Mr. Taylor did present the positive/negative criteria that Mr. Breier agrees with. Item two is a use variance for the parking. As shown, the 14 spaces on lot 7 in the CB zone is not permitted. Off street parking is a permitted accessory use. Mr. Taylor was asked if they are withdrawing the use variance for the parking and he responded that they didn't ask for one but it was in the planner's letter and he would like to address it. They are probably going to merge it for purposes of this hearing. He can't see him using it as a standalone since a parking lot you would normally charge for and they aren't going to do that. The site plan will show the lot line being removed.

Mr. Breier referenced the bulk requirements in his letter and advised that some of them will be moot since they are consolidating the lots. The building coverage percentage is going to change once the lots get combined.

The hours of operation have not been discussed yet. Trash pick-up will be private. Mr. Breier asked Mr. Simonds about the lighting and landscaping. Mr. Simonds advised that they will be keeping all lighting on the property to avoid any overflow. They will be adding landscaping to buffer the neighboring properties from the site. Landscaping will be provided around the parking lot areas to shield the light from the headlights. Trees and shrubbery will be added along Delsea Drive. Also whatever other landscaping the professionals require.

Mr. Breier asked someone to address the emergency and fire access. Mr. Taylor advised that they will be meeting with the fire company and fire officials. There are three access points to the property. Mr. Breier asked Mr. Simonds to include the location of fire hydrants on the plan.

Sue Miller asked Dale Taylor, Esq. to provide some information about the owner, Mr. Talati. He has a property up somewhere in North Jersey. He loves Clayton. He likes the community and that it's a small town. Sue added that this is someone who personally owns it and fully vested in the business. It's owned by both himself and his wife as an equal partnership. Sue also asked about the elevations and if they were going to be what they are now. Dale Taylor, Esquire added that they would like some input. Mr. Simonds added that it has not been proposed right now. Dale Taylor added that there was some discussion about a second floor.

MOTION TO OPEN TO THE PUBLIC

M/ Miller, S/ Branco

Ayes: Unanimous

Jeanne Schoellkopf – 340 Aura Rd. – She's assuming no experimental lab to do with medical and was told not contemplated. If the owner truly loves Clayton, she questioned why he has not mowed the property. It's the only property along the Delsea Drive corridor that is not mowed. Dale Taylor indicated that they will have him clean up the property.

Tom Washburn – 22 Maple St. – He thinks it's great that they are doing something with the property. The only concern he has is about the use. When you say pharmacy, is it going to be a methadone clinic which will not be good for anyone in Clayton? John Alice added that that is a hard no, no methadone clinics or treatment clinic which will be put in the resolution. Dale Taylor advised that it is going to be a pharmacy or a drug store and that the owner is a pharmacist himself.

Rose Ann Lafferty, Zoning Officer, Borough of Clayton – She advised Mr. Taylor that she did leave Mr. Talati a message to clean up the property. He was notified and wasn't sure if he got the message or not. In regards to the medical use, please stipulate in the resolution of what it can't be. John added right now all we are talking is a pharmacy and medical offices.

Laura Hampton - 36 Maple St. – She has several concerns and interests. She heard the engineer speak about renovating the building. Are you keeping the existing structure and work off of that. Mr. Simonds answered that is his understanding. The applicant is going to keep the existing building and renovate the existing building. She asked about the garages in the back. The garages are going to be parking. She also has concerns about the runoff onto other properties and asked that they pay attention to that. Dale Taylor added that they would submit a grading plan to the engineer who would review it and address any concerns. Would you consider building a berm of dirt and build it up and put a fence over it. Since it is only 11 feet, it's too small of an area to put a berm. They will probably put some evergreen trees. The outside of the building will be refurbished. Back by the garages, it's her understanding that there may be fuel tanks in the ground. The property was once run as a limousine service. Mr. Taylor responded that Mr. Talati had them inspected and they didn't find anything and we will confirm with him. Joe Abate also added that it needs to be confirmed. John Alice answered that if he owns the place then he already did check it. Mr. Taylor added that when they met at the DRC meeting Mr. Abate asked about environmental clean up and Mr. Talati certified that there were no tanks on site and that he had a study completed. We will get a copy of that study.

She asked about the parking on Delsea Drive did you consider it the other way around. When you drive down Delsea Drive, most are store fronts. She is curious as to why they

would not be switched. She was told because of the accessory use. Regarding the property that is going to be kept and renovated, there is an unoccupied bank owned property. Have you considered to have that preserved. She showed it to them on the plan. Mr. Taylor advised that he is not looking to own residential properties but I can mention it to him. She added that she would really like that property to become a parking lot for the fire company. They need a parking lot. She is afraid when they demolish the property that all the various wildlife that live there will be on her property. Mr. Taylor advised that her that they will go in and see if there is any wildlife living in there and see if they can eradicate any of it.

Anthony Cerone – 37 W. DeHart Ave. – If the building is on Delsea Dr., it does much better curb appeal with a building being there rather than a parking lot and building in the back. But I guess I you're using the existing structure, there isn't much you can do. Dale Taylor added that if you go down town there are a lot of businesses where the parking lot is out front like the liquor store. Mr. Cerone added the dollar stores also. Mr. Cerone also asked why would the applicant want to come here and compete against CVS and Rite Aid. He's thinking more of a family pharmacy and not a big chain pharmacy. Should a study be done as to where the drainage goes now. Joe Abate responded that the engineers will do that. Dale Taylor added that when they do a site plan they will have to show the existing condition and the proposed condition.

Laura Hampton asked if she heard correctly that the pharmacist wants to concentrate on being a compound pharmacy. Mr. Taylor advised no he did not say that.

A resident in the audience asked if they could change topics and Mr. Abate that they cannot cause they are discussing this application but they will change topics in a couple of minutes.

MOTION TO CLOSE TO THE PUBLIC

M/ Fox, S/ Miller

Ayes: Unanimous

MOTION TO APPROVE USE VARIANCE FOR CLAYTON HEALTHCARE, LLC

M/ B. Saban, S/ Miller

Ayes: Abate, Branco, Culver , Fox, Miller, B. Saban, Thomas

Fink Organization, LLC – 616 S. Delsea Dr., a/k/a Block 1001, Lot 31 – Use Variance
Dale Taylor, Esquire represents the applicant, Fink Organization, LLC. This property was previously owned by the Nicastro family and was a barber shop. They are going to lessen the intensity of the use. The front is in the Central Business District and the rear in the residential district.

They are going to remove the two businesses and put in four apartments. They are going to upgrade the apartment and change the whole building. There will be accessory parking in the back. Previously you pulled off the highway in the lot and there was

parking in the front on the blacktop. That's going to be ripped out and will be landscaped. Robert Fink is the sole proprietor of Fink Organization, LLC. Mr. Phil Ruggieri is the architect. Mr. Bill Gilmore is the engineer. The professionals were sworn in by John Alice, Solicitor. Mr. Ruggieri is a licensed architect since 1980 in the State of New Jersey.

Rob Fink resides in Cherry Hill, NJ and is a real estate investor. He deals with single family homes, duplexes, triplexes, apartment complexes. He is looking to downsize from five units to four units and bring it to a residential use. Mr. Taylor referenced the picture. The blacktop area in the front is going to be removed and grass put in. The entry way will extend from Delsea Drive to the back of the building. They are making these apartments since there are houses on Jerry's Ave.

Mr. Ruggieri spoke on behalf of the application referring to an architectural elevation. They are proposing board and batten siding and changing out all windows to double hung and giving it a very traditional look. Each of the entrances in the front will be removed. It will look like a new building. They don't have an interior plan yet. John added that the record reflect that the elevation of the building is A-1. There will be four units. Mr. Fink added that there will be two three bedroom units and two two bedroom units. Dale Taylor, Esquire added that this would be strictly residential and right now the street scape is not very attractive. It will look better when this is done. If you turn this into commercial, you are talking about a lot of people accessing egressing with parking in the rear and ingress and a lot of traffic. This from a traffic impact would only generate 0.59 one half of a trip per unit. There are four units so you're basically talking two cars. It's a very low impact. John Alice added the zoning plan will be marked as A-2.

Tony Saban asked if DOT requires sidewalks and curbing on Delsea Drive. Mr. Taylor responded that there are no sidewalks there now. Melissa asked about the back of the property in regards to the land. It's going to be parking. It's a deep lot. People could probably have a garden back there if they wanted. There will be room to sit out back instead of being cooped up in the apartment. If they have small children, there is room out there to put some stuff outback. Melissa Fox thinks we have a lot of rentals in the town. They are going to be nice upscale units. It shouldn't draw a lot of people since there are only going to be four units. Dale Taylor added that if they did some type of a business there the impact would be much more negative. The impact off of Delsea Drive, people with their cars and the parking lot would be a lot deeper. The people on Jerrys Avenue would be impacted a lot more if this were a business. He thinks this is the better choice of the two. We are proposing something better than what is there right now. The property has been sitting there for a while now.

Bill Gilmore, PE briefly discussed the plan. This is still a concept idea to do this. The parking is in the rear as they do not want parking out on Delsea Drive. The DOT will have jurisdiction over this access drive. The DOT may want a sidewalk put in and it would be agreed to. They will also be providing landscaping. John Alice asked if they are agreeing to just sidewalks now or curbing also. Mr. Gilmore responded probably just sidewalks now. They came in and did an overlay on Delsea Drive two or three years ago.

He thinks there is still a moratorium on digging it up. John asked if the Board if they have an interest in curbing even if it doesn't get built right now. Joe Abate added there is a function for it in regards to stormwater. John added that he will put the sidewalk as this approval and that they will explore curb issue for site plan. They will discuss it with DOT to see what they require and if they want them to put curbs in or not.

Joe Abate asked about the landscaping in the back. Since there are going to be 10 bedrooms in there he assumes there is going to be children there which I'm sure they will be utilizing that space there and thinks they should make it nice back there. Dale Taylor suggested maybe adding a mini tot lot. Dale added that they will be meeting with them to discuss it.

Brief discussion took place about the width of the driveway and access to the rear of the property.

Mr. Gilmore spoke about the positive and negative criteria. There is enough space for the specific use. There will be families moving in there and there is plenty of room back there. It will benefit the community as it will update the streetscape. It does provide significant space for this use. There will be no negative impact in regards to traffic and property will be cleaned up. It will also blend in with the homes on Jerrys Avenue.

Paul Breier, PP referenced his letter dated June 22, 2021. He clarified that the CO zone is the first 160 feet of the property which includes the building, the parking in the front, and where the garage is falls under that zone. The back 37 feet is in the RV zone which is why they are asking for a use variance because residential is not permitted. Parking is also prohibited in the front in a CO zone. Mr. Breier agrees with their statements for the positive and negative.

He added that they did speak about the impact of trash and municipal services. He also indicated that it will a small impact on the schools. Mr. Taylor agreed and also indicated that the two bedroom apartments may not even have children in them as it could just be a husband and wife or a single person and they usually want a spare bedroom/home office. That could also go for the three bedroom as well.

Mr. Breier added that the Public Works Director, Greg Sawyer, submitted his writing in regards to water/sewer service being available and that he has no issue with the change of use. He added that additional connections or fees may be required and will be determined when detailed plans are submitted.

In regards to Emergency and Fire Access he asked that they provide testimony. They responded that they will be submitted the turn radius information for an ambulance and fire truck. Additional parking will also be provided for emergency purposes.

Mr. Breier asked about what they are providing for lighting on the building and the parking lot. The lighting will blend in and is what you see in a residential use. It will be reviewed more during site plan.

Melissa Fox inquired if they are bringing in people at a higher rent level. Mr. Fink responded that he is fully renovating it which usually brings in a tenant that is going to take care of the property and stays there for a while. It's not specifically higher rent but a tenant who cares and will take care of the unit and someone who still stay for a while.

Paul Breier, PP asked about the affordable housing. Dale Taylor asked where we are. Joe Abate indicated that we are good and have met it.

MOTION TO OPEN TO THE PUBLIC

M/ B. Saban, S/ Miller

Joann Clay – 1 Jerrys Ave. – She was a little confused and asked about the plans they looked at about two years ago was due to this newspaper and was 120 apartments. She was advised that that is a different application and has nothing to do with this. The board advised that the property is located next to Kenny's Liquors.

MOTION TO CLOSE TO THE PUBLIC

M/ B. Saban, S/Miller

Ayes: Unanimous

Dale Taylor, Esquire that they will come with a conceptual and meet with the sub-committee before they come back to the board.

MOTION TO APPROVE THE USE VARIANCE

M/ B. Saban, S/ Thomas

Ayes: Abate, Branco, Culver, Fox, Miller, B. Saban, Thomas

Mr. Fink was asked how he ended up in Clayton. He indicated that he is constantly looking for projects and saw the property was sitting for a long time. It's also the relationship to Glassboro. This building also has water and sewer. He doesn't get involved really with properties that do not have it.

MOTION TO OPEN TO THE PUBLIC

M/ Miller, S/ Fox

Ayes: Unanimous

MOTION TO CLOSE TO THE PUBLIC

M/ B. Saban, S/ Thomas

Ayes: Unanimous

CORRESPONDENCE:

None.

DISCUSSION:

Referred by Mayor & Council - Ordinance by Clayton Prohibiting the Operation of Any Class of Cannabis Businesses within its Geographical Boundaries and Amending Chapter 88, Unified Development, Article VI, General Regulations, Section 88-50 Prohibited Uses, of the Code of Clayton

Joe Abate advised the board that the State is setting the regulations for the Cannabis Industry on August 21, 2021. The towns either have to approve or not approve having cannabis operations in their town. Municipalities can either opt out of this plan but after seeing what the State implements can opt back in. John Alice, Solicitor, added that more towns seem to be taking the approach to opt out. John doesn't think that the State is going to have anything in place by August 21st. If you opt in, you are in for five years.

Joe Abate added that there is an Assembly Bill #A5921 that gives local officials an additional 60 days after the August 21, 2021 deadline to ban or accept. This is coming up to vote on.

Joe Abate suggested that since they can opt in whenever he thinks it's best that they opt out now and see what is put in place in a month. Bill Culver added that when we had this up before which would have been very lucrative as far as employment and taxes, etc... To start off and say no you're not welcome and then change your mind because we would be getting a little bit of money he doesn't agree with that. Joe acknowledged that he sees where he is coming from and indicated that the City of Camden just opted out of it. Tony Saban added that he thinks the best thing to do is opt out now. Sue Miller added that we only have two months and if we don't decide it's a go for every class for five years. Bill Culver added that we allow the manufacturing of alcohol and other things that are socially acceptable. This is something that is socially acceptable with certain social groups. It can be a good thing for some people and a bad thing for some people. He feels it could be very lucrative for the town and it shouldn't be kept out.

Joe Abate added that so far that 19 States have approved the legalization of marijuana. When NJ had their vote in November for legalization, 70.54 % of the people approved it including the Borough of Clayton. Out of the 565 municipals in New Jersey, 562 approved the legalization. Two of the three that did not have less than 15 voters in them.

RESOLUTIONS:

Res. #07-2021 – Approving the Use Variance of Dream Homes Development Corp./Autumn Woods

M/ Miller , S/Fox

Ayes: Abate, Branco, Fox, Miller, B. Saban, Thomas

No: Culver

Abstain T. Saban

Res. #08-2021 – Confirming the Review and Adoption of the 2020 Report of the Planning Board in its Capacity as a Zoning Board Adjustment

M/ Fox, S/ T. Saban

Ayes: Abate, Branco, Culver, Fox, Miller, B. Saban, T. Saban, Thomas

ADJOURNMENT

M/ Thomas, S/ Branco

Ayes: Unanimous

Submitted by,


Debbie Schlosser
Planning Board Secretary

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