

## **BOARD OF APPEALS**

May 22, 2017  
7:00 PM

**ATTENDANCE:** Board Members: Tim Thompson, Bill Malesh, Tim Parker, Wayne Kommalan, Mike Salmon, Planning and Zoning Director Dianna Battaglia, P&Z Coordinator Amanda Hickman, Town Attorney Fred Sussman. Property Owner: Ketan Patel.

Mr. Malesh called the hearing to order at 7:00 p.m.

### **APPROVAL OF MINUTES:**

**Motion** made by Mr. Salmon and seconded by Mr. Parker to approve the November 21, 2016 meeting minutes as written. **All in Favor. Motion Passed.**

### **NEW BUSINESS:**

#### **SE2014-02 Special Exception Revocation**

Mr. Sussman begins the meeting with a recommendation that staff should make the presentation of information regarding the matter at hand.

Mrs. Battaglia states she would like to begin by entering into the record that this hearing tonight was advertised in the Cecil Whig, a letter was sent to Mr. Patel regarding the meeting and included a copy of the legal resolution for the special exception as well as a copy of Section 60 from the Zoning Ordinance. Also entering into the record, the staff report, proposed rendering of the development, staff report and minutes from the Oct. 20<sup>th</sup> 2014 planning commission meeting, Nov. 24, 2014 BOA meeting minutes and staff report (all documents included in the board members packages that were received prior to the meeting). Also in the package is a portion of the transcript of the Nov. 24 2014 BOA meeting. I also put together a summary to better explain the history of the property and the proposed development. Per the special exception and an amendment to our Zoning Ordinance that created the Highway Corridor Unified Development, Mr. Patel was allowed divide the property into 3 smaller lots with Dollar General seeking to purchase the middle lot for immediate development. The concern of the board was that once the Dollar General was built the remainder of the property (hotel) would be standing with no other development. Approval was granted for the Unified development with the condition that the East side of the hotel would be demolished once Dollar General was set to begin work and then the West side of the hotel to be demolished within 3 years following. Approval went through and Dollar General began moving forward with the project however in May of 2016 the Town received a letter from them stating that the project was no longer being pursued and to please refund any funds left in their accounts. It is unclear as to the reasons behind Dollar General's decision to pull out of the development.

Mr. Sussman states that it is now up to the Board to ask additional questions of you (directed at Mr. Patel).

Mr. Kommalan asks if the town has made any contact with Dollar General? Mrs. Battaglia responds that there was contact in May of 2016 with the principals and it was found that the original contacts were no longer in place. Additional information was not provided.

Mr. Malesh asks Mr. Patel to please clarify the situation.

Mr. Patel indicates that the summary given by staff was accurate. The developer looking at this site indicated to him that the length of time that it took to receive approval for and begin moving forward on this particular project was just too long and that the cost far outweighed the potential return at this point. Therefore the decision was made by DG to discontinue work. As of now there is no contract with Dollar General or anyone else. He is though actively looking for potential buyers and believes that the Unified Development plan is still

very beneficial to this site and would like to continue with the concept. It just took entirely too long between the required zoning amendments and necessary procedures to get the project off of the ground.

Discussion ensued.

Mr. Patel asks what possible steps would need to be taken in the event that a new developer is found after the expiration of this current special exception. Mrs. Battaglia explains that it would need to again go through the special exception process of Planning Commission to Board of appeals, however it would not need to go to the Town Board as the required amendments to the Zoning have already been made.

Mr. Malesh asks if the board is able to simply provide a one year extension on the current special exception.

Mr. Sussman believes that the recommendation to provide an extension would not be the appropriate way to go. This was not a proceeding to request a modification to the conditions set forth in the original special exception. The issue before you (the board) is whether or not the special exception should be revoked or not, as that is what was advertised for this proceeding. In the future after the current expiration Mr. Patel can still come back to the board for a new special exception request should he need it.

Brief discussion between board members and Town attorney.

Mr. Malesh points out that there were conditions put on this special exception for a reason. He believes that an automatic revocation at the end of the original deadline come November 20, 2017 is acceptable.

Mr. Patel asks for a quick summary of the discussion, brief discussion between ensues.

Mr. Sussman recommends someone make a motion for the Town attorney to prepare a written decision that summarizes the project and cause for revocation as of November 20 2017 unless prior to that date unless the applicant demonstrates to the board that he is prepared to move forward with the project.

**Motion** made by Mr. Malesh and seconded by Mr. Kommalan to revoke the special exception per Mr. Sussmans recommendation. **All in Favor. Motion Passed.**

## **ADJOURNMENT:**

Without objection the meeting was adjourned at 7:32 p.m.

Respectfully submitted,

Amanda Hickman  
Planning & Zoning Coordinator