



TOWN OF EAST HAMPTON

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Planning Department
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Director

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March 4, 2022

TO: Planning Board

FROM: Marco Wu
Planner

RE: J. Cucci – Site Plan/Special Permit
SCTM#300-145-5-22.1 or 74 Queens Lane, East Hampton

Last Review Date: January 27, 2021

Items and Date Received: N/A

Background Information:

Site plan application has been made for a fenced-in, gravel base, facility for portable sanitary units, supplies and vehicles on a parcel containing a legally pre-existing, non-conforming single-family residence. The applicant proposes a second use as a storage yard which is a permitted use in a CI zone although it is not a specifically defined use in the Town Code. The property is situated on Queen's Lane and is zoned CI: Commercial Industrial. It is cleared of natural vegetation and is within the South Fork Special Groundwater Protection Area. A majority of neighboring properties are also zoned CI: Commercial Industrial and contain industrial uses.

The applicant is seeking support from the Planning Board for a change in the Town Code to allow properties zoned CI: Commercial Industrial to be allowed a second use on the same property as a commercial use, notwithstanding the existence of a non-conforming single family residence. As a reminder, the Planning Board had previously reviewed the application and recommended that the applicant make an application to the Zoning Board of Appeals for the required variances from the Town Code. The Planning Department recommends that the Planning Board send formal comments to the Zoning Board regarding the requested variances, use of the site, and the design of the site.

Issues for Discussion:

On-Site Uses

The application was made in part due to a code violation for operating a commercial use on what is considered a residential property without site plan approval. The commercial use has been

operating for over 15 years without the benefit of Site Plan approval and will require a variance from the Zoning Board of Appeals for the maximum number of uses. Section 255-2-45 A (1) and (2) of the Town Code references the number of allowable uses on a lot and is referenced below:

(1) *“Any one residential district lot or any one residential property: one use, or agriculture and/or animal husbandry plus one other use.*

(2) *“Any one commercial district lot or any one commercial property in any district: two uses....”*

The definitions of “commercial property” and “residential property” listed below indicate that this is a residential property and that a commercial use would only be permitted if the residence were removed. The applicant has made an application to the Zoning Board of Appeals for the number of uses, however issues regarding the proposed use of a neighboring parcel for access should be addressed by the applicant and discussed by the Planning Board.

COMMERCIAL PROPERTY

Any lot containing a nonconforming business use and any vacant or improved lot in a commercial use district, unless the only principal use or uses on that lot are one or more single-family residences. See "residential property."

RESIDENTIAL PROPERTY

Any lot in any district on which there are located one or more single-family residences as the only principal use or uses on the lot, and any vacant lot in any single-family residential district.”

The Planning Department estimates there are 26 such properties zoned CI: Commercial Industrial with a residential use and that there are over 30 other commercially zoned properties with a residential use. The Planning Board should consider that granting site plan approval may impact other properties that may be operating an existing commercial business or be inclined to operate a commercial business on a parcel with a pre-existing residential structure. The Planning Department notes that without a change in the Town Code, the applicant will either need to seek the approval of variances, remove the residence, or remove the commercial use.

Neighboring Lot for Access

As noted previously, the applicant proposes to provide access to the project site via 76 Queens Lane also owned by the applicant. This lot has a previously approved site plan and due to its unique shape, it was approved as a storage yard for vehicles. The following comments were noted in the previous evaluation;

“The applicant as agreed that only vehicles, including boats, automobiles, and trucks utilized in the applicant’s recycling business. No other materials of any kind, including trash collection bins, will be stored on site, and no space will be utilized by other parties.”

The following paragraph from the approved plan’s resolution details landscaping that;

“All of the existing vegetation on the site, including the 20 ft. width of Dayton Avenue which has been or will be abandoned by the applicant, shall be left in its natural state and may not be

cleared. In addition, the applicant shall maintain the fifteen (15) white pine trees planted along the property's frontage with Queens Lane and the five (5) white pine trees planted along the southerly property line, as shown on a sketch submitted to the Board September 16, 1996...This landscaping shall be maintained by the applicant for so long as the parking area approved by this resolution continues to exist.”

Aerials below demonstrate that the some of the vegetation have been removed and the storage of other materials.



2001 Aerial of 74 & 76 Queens Lane

2004 Aerial of 74 & 76 Queens Lane

The applicant would need a new site plan approval for 76 Queens Lane to allow for such use. Although the applicant is seeking the necessary variances from the Zoning Board of Appeals, issues such as the access and use of the site should be addressed by the Planning Board. The applicant has not submitted a site plan for 76 Queens Lane and any approval for 74 Queens Lane issued by the Planning Board or Zoning Board would also effectively approve the new site plan submission.

Sanitary System

Although the residence is proposed to remain the same, the additional use will likely not require a sanitary system upgrade. Given the age of the residence, the existing system is most likely an individual septic system. Section 210-3-2 B of the Town Code mandates an upgrade of sanitary systems to a low nitrogen system for:

- All nonresidential properties that require site plan review pursuant to § 255-6-30B (2), (4) or (5).”

- (2) Any change from one category of permitted or special permit use listed in the Use Tables of § 255-11-10 to another listed category of permitted use, if such change in use increases site parking requirements or requires approval of the wastewater disposal system by the Suffolk County Department of Health Services.
- Any other activity or land use which increases the occupancy limits of a building or increases site parking requirements.”

The site is increasing its parking requirements with the addition of a commercial use however the Town would consider the parcel as a residential property and thus may not require a sanitary upgrade.

Existing Residence

The Planning Board had discussed that it was important that the existing residence remains as there is a severe need for housing in the Town of East Hampton. The Planning Department notes that although housing is a critical issue within the Town, the existing residence is considered a separate single-family residence that is not beholden to the affordable housing standards as defined by the Town.

Conclusion

In conclusion, the Planning Board should consider the factors identified above regarding the use, access, and design of the site in their comments to the Zoning Board of Appeals. The proposed variances will likely have substantial planning implications in the Town of East Hampton and may be more appropriately addressed by the Town Board.

Planning Board Consensus:

The Planning Board should discuss their comments to the Zoning Board of Appeals

Additional comments: _____

The Planning Board may wish to send comments to the Town Board regarding proposed commercial uses on parcels containing legally pre-existing and non-conforming residences.

Additional comments: _____

Additional Board Comments:



TOWN OF EAST HAMPTON

300 Pantigo Place - Suite 103
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Eric

Planning Board

(631) 324-2696

January 28, 2021

Jeffrey Freireich, Esq.
Whalen Filer
P.O. Box 2759
Amagansett, NY 11930

Re: Cucci Site Plan/Special Permit
SCTM #300-145-5-22.1

Dear Mr. Freireich:

The East Hampton Town Planning Board reviewed your application at its January 27, 2021 meeting.

Attached is a copy of the planning department's review of the information submitted for your application. The planning board had the following additional comments:

- The board will request that the Town Board consider whether a change of the Town Code to allow preexisting residences on Commercial Industrial lots is warranted.
- The applicant should consider seeking a variance from the Zoning Board of Appeals with respect to the application including the number of allowable uses.
- The applicant should address the board's concern of the property's dirt driveway overlapping a neighboring parcel.
- The applicant should provide the permits as referenced in the NYSDEC regulations regarding waste transportation and cleaning of portable toilets.
- The applicant should provide drainage control, and substrate details for the designated areas for portable toilets.
- The applicant should follow the site plan as last approved by the Planning Board in 1996 for 76 Queens Lane or a modification to the site plan for 76 Queens Lane should be submitted.

Please address the issues outlined in the planning department memo as modified by the planning board. If you have any questions or concerns, please contact the planning board committee member for your project, Louis Cortese, or contact the planner assigned to the project.

Please respond within three (3) months of the date of this letter with the required information or with a written reason why the required information cannot be submitted within that timeframe. If we have not received a response by April 27, 2021, your application will be considered to be withdrawn and a new application will need to be filed before review of your project can proceed.

Sincerely,


Samuel Kramer
Chairman

SK/jtw

Enc.

cc: Planning Department
ARB