**LAYTONSVILLE BOARD OF APPEALS**

**APPROVED MEETING MINUTES**

**December 2, 2019 – 7:30 p.m.**

**Roll Call**

A meeting of the Laytonsville Board of Appeals was called to order by Chair Cecere at 7:30 p.m. Board Members Foster, Kerns, Ols, and Ryan were present.

**Guests**

Mr. Brian Kline, Applicant; 6720 Olney-Laytonsville Road; Laytonsville, MD

Mr. Jody Kline, Esq.; Counsel for Applicant; 200-B Monroe St., Rockville, MD

Mayor Jim Ruspi, 7111 Brink Road, Laytonsville, MD

Mr. Eric Wenger, 5715 Maple Knoll Drive, Laytonsville, MD

Mr. Charles Hendricks, 7011 Brink Road, Laytonsville, MD

Mr. John Connors, 6830 Warfield Road, Gaithersburg, MD

Mr. Shaw Seman and Mrs. Petula Alleyne-Seman, 20922 Brooke Knolls Rd., Gaithersburg, MD

Mr. Shannon Allcock, Co-owner of 6720 Olney-Laytonsville Road, Laytonsville, MD

**Minutes**

No minutes were submitted for approval.

**Old Business**

None.

**New Business**

Chair Cecere informed the Members that as per a letter dated November 10, 2019, Boyland Electric, Inc., located at 21516 Laytonsville Road, Laytonsville, MD, submitted a request for their Special Exception to be renewed for another two years. In accordance with the original Special Exception dated December 13, 2011, the company has continued to comply with all conditions set forth in the exception.

Chair Cecere asked whether a motion would be put forth to approve a two year extension of the Special Exception for Boyland Electric, Inc. Member Foster made the motion, seconded by Chair Cecere. The motion to accept the extension passed unanimously.

**Hearing**

Chair Cecere explained that the function of the Board of Appeals is to grant or deny special exceptions in accordance with the terms and zoning ordinances of the Town of Laytonsville. Chair Cecere read the procedural policies of the Hearing for all those present and explained that all those wishing to provide testimony would be sworn in.

***Special Exception SE-01-19 – Mr. Brian Kline, J.B. Kline Landscaping***

Mr. Jody Kline, Counsel, provided the Board with background information regarding the landscaping business located at 6720 Olney-Laytonsville Road as follows:

* The property has been used as a base of operation since approximately 1986.
* In 2011, Mr. Brian Kline obtained a special exception from Montgomery County (Case No. S-2807) for the majority of the property.
* The request did not include an area of approximately one acre (front parcel) because Mr. Brian Kline was residing in the residence located on that parcel and it was not essential to the operation of his business.
* In 2017, Mr. Brian Kline, along with another adjacent property owner, applied to have his entire property annexed to the Town (Annexation Application No. AXR-1) and be rezoned from Montgomery County’s R-200 zoning to Laytonsville’s C-1 zoning. The application was approved in February 2017.
* There was a restriction of the annexation approval that indicated that the land annexed could not be used in a manner different than what was allowed under the Montgomery County Zoning Ordnance as of the date of approval until February 7, 2022.
* Mr. Brian Kline may not extend his business operation to include the one acre front parcel because he did not hold a special exception for that use as of February 7, 2017.

Mr. Brian Kline, owner and operator of J.B. Kline Landscaping provided the Board with the following information concerning his intention:

* His business is expanding and he no longer resides on the property.
* He has submitted a Special Exception Application to seek approval to use the one acre front parcel as a continuation of his already existing business.
* He will renovate and convert the former residence into office space for administrative personnel of J.B. Kline.
* He will construct an employee parking lot within the one acre area.
* He will install a 24’ by 60’ trailer for use for administrative personnel while arrangements are being made for the renovation of the former residence.

Chair Cecere entered the following exhibits into the record: Kline Exhibit 1 – Application for Special Exception; Kline Exhibit 2 - Annexation Agreement; Kline Exhibit 3 – Annexation Resolution.

Board Members raised the following questions regarding the application:

* Would the renovation and construction affect the outside of the former residence; the type of surface to be used for the parking lot, and whether the land was flat or raised indicating that this might pose a drainage problem?
* How many new parking spaces and whether the area would have appropriate screening by trees to obscure their view from the street?
* Would additional employees be employed which could result in additional equipment or commercial vehicles to be used?
* Would the property be used for any retail or wholesale business?
* Would the trailer be permanent or temporary and for how long, pictures of trailer?
* What is on either side of the commercial property?
* Would there be any changes to the signage of the property?
* Any restrictions within the county regarding trucks, hours of operation, number of employees?
* Would increased or different lighting be used to secure the business?
* Any restrictions on building or number of structures which can be housed on property?

Mr. Charles Hendricks voiced his concerns regarding the size of the trailer and whether it would be a temporary structure or permanent. He also commented that the trailer would be detrimental to the town and suggested that Mr. Brian Kline should be looking for a more permanent option for office space which conforms with the character of the town rather than a temporary structure. Mr. Hendricks noted that the trailer depicted on the chart brought by Mr. Brian Kline was not to scale and gave a misleading rendition of the actual size of the trailer versus the size of the property. He asked that if the trailer were to be used as office space, would it need to be hooked up to electricity and water in order to operate the facilities. Mr. Hendricks also requested more information regarding any possible restrictions that might have been imposed when the property was under the County’s R-200 zoning.

Mr. and Mrs. Shawn Seman voiced concerns regarding noise levels since the business operated from 6:00 a.m. to 6:00 p.m., sometimes six days a week. They also requested that Mr. Brian Kline consider providing some additional coverage between their properties in order to block out some of the various buildings associated with the business.

Mayor Ruspi indicated that there is a noise ordinance with which businesses must comply and indicated that in the past there have been a few complaints regarding the noise level at Kline Landscaping.

Mr. John Connors submitted his written opposition (entered into the record with pictures, Connors Exhibits 1 and 2) and objection to the Special Exception based on the following issues:

* Proper notice was not given regarding the meeting nor was adequate time provided to review the documentation. Due to the Thanksgiving holiday and the business hours of the Town Hall, the 14 day notification process was not followed.
* Storage units have been placed at the far right corner of the property, against Mr. Connors lot (pictures provided).
* A berm and planting to screen Mr. Connors property from Kline Landscaping has not been carried out in accordance with the annexation plan.
* Kline Landscaping is benefitting greatly from the conversion of his property but this might be detrimental to the adjacent residential properties. Mr. Connors felt that the annexation of the Kline property to the town was a mistake.

Messrs. Brian Kline and Jody Kline addressed the concerns of the Board as well as guests and indicated that the property would continue to be used in the same manner as before. The only change being requested is the inclusion of the parcel of land containing the residence and to add a trailer. Approximately 15 additional parking spaces would be provided for employees and they would be in accordance with County regulations as to the size of each space. Additional staff or equipment might need to be obtain depending on the possible future expansion of the business which cannot be predicted at this time. The property would not be used for either retail or wholesale function. The trailer is a temporary solution for his administrative staff due to the constraints imposed by their current office space. However, a time period regarding the trailer cannot be given at this time since it would depend on the changes and conversions needed to upgrade the current residence to an office. While the business is surrounded by residential property, Mr. Brian Kline has made an effort to maintain good relations with his neighbors while adding that depending on the nature of the business (i.e. during snow removal), his hours and days of operation will vary. No changes are contemplated to the exterior of the residence other than possibly a new roof or painting of outside trim. Signage will not be changed nor increase. If additional lighting is needed, it will be low to the ground or pointing downward so as not to disturb neighbors. Currently, Mr. Brian Kline had not selected a trailer and could only provide standard dimensions. Regarding bathroom facilities for the trailer, proper sewerage removal is available, but in the event that there is a problem, adequate provisions will be made. Both Messrs. Brian Kline and Jody Kline reiterated that the additional parcel of land to be included in the Special Exception will continue to be used in the same manner in which the business is currently operating and that any restrictions imposed on the R-200 zoning would not be relevant under the Laytonsville C-1 zoning. Mr. Brian Kline also noted that the berm to which Mr. Connor referred was originally a pile of dirt which he removed in order to plant the present berm.

Mr. Eric Wenger, Chair of Laytonsville Planning Commission, addressed Mr. Connors’ concerns that the annexation of the Kline and Allcock properties was a mistake. Mr. Wenger assured Mr. Connors that the process and decision taken was lengthy and detailed encompassing a vision for the Town of Laytonsville. The zoning and development of the lands is contingent upon and limited to their present uses and those uses and density that are consistent with R-200, and any new development shall be limited by the requirements and standards associated with use and density applicable to R-200 land within the County for a period of five years from the effective date. Mr. Wenger also reminded the meeting that the Board can set conditions under the Special Exception.

Mr. Connor asked Mr. Wenger since the property is now deemed as commercial, could a CVS move into that location. Mr. Wenger confirmed that the owners of the property could request a different use for the land, but would have to seek a special exception from the Town’s Board of Appeals.

Chair Cecere asked Mr. Brian Kline if it would be possible for him to meet with the residents who have voiced their concerns at the meeting.

Mr. Brian Kline indicated that he had no objection to meeting with the residents since he had previously met with them to discuss his potential plans. However, he did express his concern that the meeting had not stayed with the original agenda which was to request a Special Exception to include the one acre of land where the residence is situated and the addition of a trailer. The concerns of the residents pertain to an area to the upper, far right of the property and did not address the current topic.

Chair Cecere indicated that one of the Board’s function was to consult residents concerning general health, welfare, noise, lighting, etc. that could have a detrimental effect. He also raised concerns that the public was not given the appropriate amount of time to review the documentation in accordance with set procedures. Chair Cecere requested Mr. Brian Kline to provide the Board with pictures of the proposed trailer along with any other material relevant to the Special Exception, and requested those residents who are opposed to the Special Exception to bring evidence for consideration.

Chair Cecere asked for a motion to keep the hearing and meeting open until next week. Member Foster made the motion which was seconded by Member Kerns. Motion passed unanimously.

Next meeting scheduled for December 9, 2019, at 7:30 p.m.

Respectively submitted,

Nadine Tarwater