

**WORK SESSION OF SEPTEMBER 27, 2005**  
**Radburn School**

Mayor Ganz called the meeting to order at 8:30 p.m.

**PRESENT:** Mayor Ganz, Deputy Mayors Etler and Weinstein and Councilmembers Caan and McCarthy.

**ALSO PRESENT:** Manager/Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Lustgarten.

**Maple Avenue Deed Restrictions:**

Linda Herlihy from Wells, Jaworski, Liebman and Paton was present. Attorney Lustgarten reviewed what was discussed at the last meeting. He said that in 2003 the Council lifted the deed restriction and before that there were license agreements. Ms. Herlihy showed the buffer zone which will be 100 feet from the rear yard line. There would be no development. Attorney Lustgarten stated they would still need to go to the Planning Board for approvals. He stated he would need something in writing from Ms. Herlihy's office.

There was a unanimous consensus to allow the developer up to 45 square feet south of the boundary lines as the deed requires. The matter is to be referred to the Planning Board. After the Planning Board approves the application, they can proceed with a consent order to vacate the restriction.

Deputy Mayor Etler stated this was subject to site plan approval. Councilmember McCarthy felt that since the restriction has been lifted on the other properties, it was only fair to do this for them.

**COAH Planner:**

Ron Mondello, 0-100 27<sup>th</sup>, stated that he was there to request assistance for a new plan for the housing element. He is an attorney, not planner. Mayor Ganz asked if there was any reason why Schoor DePalma could not do it. He also asked him how much money he felt would be needed. Mr. Mondello stated between \$7,500 and \$10,000. He asked if he could get School DePalma's report in electronic format since it would be a good way to start.

Mayor Ganz suggested hiring Schoor DePalma in an amount not to exceed \$10,000.

There was a unanimous consensus to Schoor DePalma as the Planner in the amount not to exceed \$10,000.

**Sole Spa:**

Manager/Municipal Clerk Kwasniewski stated that she, Dennis Kolano and Attorney Lustgarten met with Mr. Poley. They spent two hours with him. The Spa was given a

temporary CO to operate the business without massage. They were told to put in their application to the Zoning Board for an interpretation of the zoning ordinance. They were also instructed that they had to be licensed by the Borough. They did pick up their application from the Zoning Board. They also came back with their applications for the establishment and massagist but they were not completed because the background checks were not done. Also, Chief Rose and Captain Serrao were not happy with the fingerprint cards they supplied. She said that until Zoning makes the interpretation, they cannot be licensed by the Borough. Attorney Lustgarten concurred with Manager/Municipal Clerk Kwasniewski.

Mr. Poley was present and stated that pursuant to the ordinance the company can be licensed as an establishment. He believed this was not a zoning issue. He explained reflexology as a pedicure with a massage on the legs. Mr. Poley expressed his frustration in having gone through this for months. They have gone through extensive time and money. He asked that the Council vote on this pending the background checks.

Attorney Lustgarten stated they are asking the Council to vote on a massage establishment that has not been approved by the Zoning Board which is in the proper forum. He advised them they can appeal the Construction Code Official's decision but that will not resolve the other Zoning issues. They cannot vote on a premise that is not approved. He recommended they take no action until there is an establishment that is approved.

Michael Lagrotteria was also present and stated they had given a description of a day spa which includes personal service. He appealed to the Mayor and Council to vote on this because they are losing money. Mayor Ganz reminded him it is a zoning issue. Mr. Lagrotteria said he did not see any nail salons having to go through this. Attorney Lustgarten advised this was an argument for the Zoning Board. Even if the Mayor and Council approved this tonight, they do not have the authority to give the relief they are seeking.

### **Miscellaneous Public Comments:**

Donal Meyers, 8-22 Mayfair Terrace commented on the Maple Avenue deed restriction. He felt that this should have gone to the Open Space Committee for them to review. Here they have a property with a deed restriction that should be preserved for open space. Instead of going to the community, the Council tells the property owner to go to the Planning Board.

Deputy Mayor Etler stated that this piece of property has an old house on it and felt that any building would be an improvement. He also reminded him that there are other properties that have had either the deed restriction lifted or a license agreement. Mr. Meyers felt it should have gone to the Open Space Committee.

### **Adjournment:**

Upon motion by Deputy Mayor Etler and a second by Councilmember Caan, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC  
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

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Councilmember Allan Caan

Deputy Mayor Martin Etlar

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Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein