

REGULAR MEETING NOVEMBER 9, 2009

The meeting was called to order by Chairman Peter Kortright at 7:30 P.M.

The notice of the Open Public Meetings Law was read.

Roll Call: Present: Deputy Mayor Lisa Swain, Joseph Baladi, Todd Malkin, Barry Winston, Phillip Cassidy, Larry Metzger, Scott Osback, Joseph D'Arco, Baruch Gadot, Absent: Honey Morgenstern

Also present: Board Engineer Kevin Tichacek, Board Attorney Douglas Bern, and Board Secretary Cathy Hochkeppel

Approval of Escrow Bills

Upon motion by Todd Malkin and a second by Scott Osback, the escrow bills were unanimously approved. AYES: Deputy Mayor Lisa Swain, Barry Winston, Phillip Cassidy, Larry Metzger, Scott Osback, Joseph D'Arco, Baruch Gadot, Todd Malkin, Chairman Kortright.

Approval of Minutes

Upon motion by Todd Malkin and a second by Phil Cassidy, the minutes of the regular meeting of September 14, 2009, were unanimously approved. AYES: Deputy Mayor Lisa Swain, Barry Winston, Phillip Cassidy, Larry Metzger, Scott Osback, Joseph D'Arco, Baruch Gadot, Todd Malkin, Chairman Kortright ABSTAIN: Larry Metzger

Upon motion by Philip Cassidy and a second by Deputy Mayor Swain, the minutes of the regular meeting of October 5, 2009, were unanimously approved. AYES: Deputy Mayor Lisa Swain, Barry Winston, Phillip Cassidy, Larry Metzger, Scott Osback, Joseph D'Arco, Baruch Gadot, Todd Malkin, Chairman Kortright ABSTAIN: Larry Metzger, Todd Malkin

General Public Comments

Chairman Peter Kortright opened the matter to the public.

Harvey Rubinstein, 7-17 Chandler Drive, stated that with regard to the Board's review of Ordinance 2168-2009, he believes that even if the requirement that the applicant send the application to the Environmental Commission is already in the code, it should be inserted in this section so it would be all together.

Jane Diepeveen, 14 Ryder Road, stated she is happy to hear that the Borough will do a new master plan and asked the status. Todd Malkin explained that the subcommittee met in September and will be reaching out to difference borough committees for their input as well. There are many items to be reviewed. Currently, the amendments to the master plan are bigger than the original plan. The Board intends on obtaining a great deal of public input.

The meeting was adjourned for ten minutes at 7:50 to await counsel for the applicant. The meeting reconvened at 8 p.m. with all members present as previously indicated.

Hajjar Medical Office, 14-01 Broadway, Blocks 4321 and 4317, Lots 12, 15-26

Andy Del Vecchio reminded the Board that he had previously reviewed the architectural drawings. Amended architectural drawings were marked as Exhibit A-6. Mr. Del Vecchio indicated that one of the neighbors had raised concerns about people looking out of second story windows. The revised drawings now depict frosted windows. The short rectangular windows will not be frosted as they are above the line of vision.

Kevin Tichacek asked about the calculations with regard to the parking variances and was told that the calculations were for the entire area including the space marked "future office space".

David Hall, 9 Post Road, Oakland, New Jersey, was sworn in and qualified as an expert engineer. He testified that he prepared the site plan and drainage calculations. The site plan drawings consisting of six sheets dated October 20, 2009, were marked as Exhibit A-7. A colorized version of sheet 6 dated July 23, 2009, was marked as Exhibit A-8. He explained the existing conditions. The proposal is to remove the existing building and construct a new facility. A colorized version of Sheet 1 dated October 20, 2009, was marked as Exhibit A-9. He explained that the proposed driveway access will be from Broadway and the existing driveway on Kenneth Avenue will be eliminated. All the parking access will be from Broadway. Eight stacked spaces will be employee only spaces. Visitors will be able to pull behind the spaces. He explained the setback variances. There was some discussion regarding the stacked parking spaces. Signage could be painted on the pavement. All visitors could sign in indicating their license plates. He testified that there was more than sufficient parking for the surgical center. He also testified that the applicant doesn't operate in shifts. The doctors and nurses are full-time employees. There was some discussion regarding the process for moving cars in the event of an emergency. Due to liability issues, it was agreed that the best procedure would be for all visitors to sign in and identify their vehicle. It was noted that the access on Broadway is subject to D.O.T. approval. There will be no loading zone or garbage area. The garbage

service will remove both regular and medical waste daily. The traditional hours of the facility are 8 a.m. to 5 p.m. He explained that there will be a stone swale to redirect the water eliminating some of the current drainage problems experienced by the residents. There will be an underground detention system. The utility service is available in the street. Pursuant to the vision of the Broadway Improvement District, they have provided a larger sidewalk area. They have introduced three street trees on Broadway and three on Kenneth Avenue; and have added decorative light poles which are architectural style street lights. They also added a bench at the bus stop location. Hr. Hall explained that the landscaping along the back edge of the building has been improved. There will be a hedge row six to eight feet high. It was suggest that it be supplements with a solid fence. Todd Malkin pointed out that there is fence detail in the RRIC plan. Mr. Hall testified that the parking area will service the building and will function as a regular parking lot. It was explained that the first level parking area will accommodate a standard vehicles. There will be a sign and a swinging bar as a warning as found in many parking garage areas. Deputy Mayor Swain asked if the tree ordinance was being complied with and was told that the applicant will be adding more trees than required. The cleaning service will take the garbage out of the building on a daily basis. The cement sidewalk will be a colored concrete per the B.I.C. Deputy Mayor Swain expressed concern in the event there was a change in the type of medical facility and Mr. Del Vecchio indicated that the applicant would be willing to accept a condition that if the medical use changes, the applicant would come back to the Board.

The size of the parking lot was questioned and Mr. Del Vecchio pointed out that there is no benefit to create a large parking area only to sit vacant. With regard to the size of the building, it was explained that the surgical center requires a certain footprint and the need is significant. The medical components are very specialized and that adds to the building mass and generates a large amount of area. Mr. Hall indicated that there was no intention to have specific reserved spots for the doctors and they will park in the employee only area.

Chairman Kortright pointed out that the parking on Broadway might change and the Borough Engineer will be consulted accordingly.

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Mr. Debra Thappa, 1-15 Kenneth Avenue stated she is still not comfortable with the third floor windows. It was explained that the bottom of the window begins at eight feet high, above anyone's line of vision. Ms. Thappa also pointed out that a patient could generate more than one car if parents come separately. She was also concerned about the water runoff in the area.

Nicholas Magarelli, 1-20 Kenneth Avenue stated that 41 spaces are required and only 23 are being provided. He was concerned if the facility changes hands. Chairman Kortright replied that any change in the use of the building would require approvals by this Board.

Jim Magarelli, 1-16 Kenneth Avenue, asked if the building would be fully sprinkled. Mr. Hall replied that the building and the garage will have sprinklers.

Paul Phillips, 434 Sixth Avenue, New York, New York was sworn in and qualified as an expert planner. He testified that he was familiar with the master plan, the Broadway Vision Plan and the local ordinances. He stated that the proposed use is a permitted use. The applicant requires parking, building coverage and setback variances, as well as a waiver for the loading zone space. He addressed the parking variance and stated that the local code lumps all types of medical uses together. He testified that if this were a multiple, traditional medical practice, twenty three spaces would probably not be enough. He added that the nature of a pediatric surgery center doesn't generate the same need. Only eight procedures can be performed on a daily basis, four in the morning and four in the afternoon. Peak patient demand is very, very low. He testified that the granting of this parking variance can be done without detriment. With regard to the loading zone, since there will be no tractor trailers, there is no need for a separate dedicated space. The building coverage is 58.86% where 35% is the maximum. Part of the reason the building coverage is high is that much of the ground floor is parking. He pointed out that you could have a smaller building that would be a multi-tenant building and would be a more intensive use. Given the size and relatively limited size of the lot, Mr. Phillips opined that 35% is a difficult standard to meet. He also pointed out the B.I.C. is recommending 50% building coverage. Mr. Phillips stated that for those reasons, both C(1) and C(2) criteria enable the Board to grant that relief. Mr. Phillips addressed the setback requirements. He stated that the ten feet parking setback mimics the adjoining property and is consistent with the recommendations of the Broadway vision plan. Because of the height of the building, a forty feet side yard setback is required. The applicant is trying to meet the spirit of the requirement by stepping back the third level ten feet. Mr. Phillips stated that this is a reasonable solution of balancing the requirements and providing an improved development. He pointed out that there will be a fence and landscaping that are not in place at this time and that the plans were modified to preclude any views from the building into the neighborhood. The existing structure is less than four feet from the property line. Mr. Phillips stated that there is basis for granting the setback variances without impairment to the zoning plan. He added that all of the variances meet the C(1) or C(2) criteria.

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Jane Diepeveen, 14 Ryder Road, stated that she didn't hear evidence for the granting of the variances as she believed this was a standard lot. Mr. Phillips respectfully disagreed and stated that he believed the benefits of this development far outweigh any detriments.

Joanne Magarelli, 1-16 Kenneth Avenue, was concerned that rather than eight surgeries a day, they will expand and perhaps do as many as forty surgeries a day.

Nicholas Magarelli, 1-20 Kenneth Avenue, stated he is familiar with the property and believes this is too large a building. He was concerned about the removal of the medical waste and did not believe it would be done on a daily basis. He explained that there are traffic and parking problems in the area as the funeral home sometimes overflows onto Kenneth. He thought the size of the building might cause additional problems and obstruct emergency vehicles and hinder snow removed.

John McParland, 3-22 Kenneth Avenue, stated that the patients will park on the street. The sidewalk is seven feet wide. He stated that the biggest consideration is the ridiculous size of the building and believed it belonged in a city setting, not Fair Lawn. He was also concerned about the traffic.

As no other public wished to be heard, the time for public comment was closed.

Andrew Del Vecchio stated that it is not often that he gets to represent an applicant that is a "first". There is no other pediatric surgical center in Bergen County. The use is permitted at this location. This is also the first development to comply with the Broadway Vision Plan, will be a cornerstone of the redevelopment and will set the tone. The applicant is a longtime corporate resident of this community. Certain services can be shared without placing additional traffic into the area. Changes have been made at the suggestion of the Board members or the neighbors. He urged the Board to vote in favor of the application and stated that this will certainly be an improvement.

Baruch Gadot moved that the application be approved subject to DOT approval, following the guidelines of the B.I.C. with regard to lighting and decorative sidewalk, a six foot high fence being installed along the back subject to B.I.C. recommendations, surface marking on the parking spaces, Borough Engineer to review any off-site parking issues, Board Engineer's final approval of the storm water management plan, proper recordation of visitor's vehicle information and as an additional condition of approval, in the event the nature of the medical facility were to change, the applicant would be required to return to this Board. Joseph D'Arco stated he didn't see any benefit to granting this application. AYES: Scott Osback, Barry Winston, Deputy Mayor Swain, Baruch Gadot, Phillip Cassidy,

Larry Metzger, Chairman Kortright NAY: Joseph D'Arco Ms. Hochkeppel stated that the application has been approved subject to the conditions recited.

ADJOURNMENT

Upon motion by Todd Malkin and a second by Deputy Mayor Swain, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Municipal Housing Liaison/
Land Use Administrator/
Secretary of the Planning Board

CH:mc