

## REGULAR MEETING OF AUGUST 11, 2014

The meeting of the Fair Lawn Planning Board on Monday, August 11, 2014, was called to order at 7:30 P.M. by Chairman Brent Pohlman in the Council Chambers of the Fair Lawn Municipal Building.

The notice of Open Public Meetings Law was read stating that the newspapers were notified and a notice posted on the first floor bulletin board of the Fair Lawn Municipal Building.

### **Roll Call**

PRESENT: Chairman Brent Pohlman, Deputy Mayor Amy Lefkowitz, Vice-Chairman Joseph Mele, Joan Fragala, Oliver Wilhelm, Benjamin Bontekoe, James Hughes, Peter Kortright, III, Daniel Furphy  
Absent: Amy Hummerstone, Larry Metzger

Also present: Board Attorney Thomas W. Randall, Esq., Engineer Elliot Sachs and Board Secretary Cathryn Hochkeppel.

### **Approval of escrow bills**

Upon motion by Joan Fragala and a second by Deputy Mayor Lefkowitz, the escrow bills were unanimously approved. AYES: Deputy Mayor Lefkowitz, Vice-Chairman Joseph Mele, Joan Fragala, Oliver Wilhelm, Benjamin Bontekoe, James Hughes, Peter Kortright, Daniel Furphy, Chairman Pohlman

### **Approval of Minutes**

Upon motion by Oliver Wilhelm and a second by Joan Fragala, the minutes of the special meeting of June 23, 2014 were unanimously approved. AYES: Vice-Chairman Joseph Mele, Joan Fragala, Deputy Mayor Amy Lefkowitz, Daniel Furphy, Benjamin Bontekoe, James Hughes, Peter Kortright, Oliver Wilhelm, Chairman Pohlman

Upon motion by Joan Fragala and a second by Deputy Mayor Lefkowitz, the minutes of the regular meeting of July 14, 2014, were unanimously approved. AYES: Vice-Chairman Joseph Mele, Deputy Mayor Amy Lefkowitz, Benjamin Bontekoe, James Hughes, Oliver Wilhelm, Joan Fragala, Chairman Pohlman  
Abstain: Daniel Furphy and Peter Kortright

### **Memorializing resolutions**

#### ***Mondelez – 22-11 Route 208; Block 4903, Lot 2; sign variance***

Upon motion by Joan Fragala and a second by Oliver Wilhelm, the memorializing resolution was unanimously approved. AYES: Joan Fragala, Deputy Mayor Lefkowitz, Joseph Mele, James Hughes, Benjamin Bontekoe, Oliver Wilhelm, Chairman Pohlman

***Anshei Lubavitch- 10-10 Plaza Road, Block 3514, Lots 1-11; Block 3515, Lots 8-12; minor site plan***

Upon motion by Joseph Mele and a second by Deputy Mayor Lefkowitz, the memorializing resolution was unanimously approved. AYES: Joan Fragala, Deputy Mayor Lefkowitz, Joseph Mele, James Hughes, Benjamin Bontekoe, Oliver Wilhelm, Chairman Pohlman

***Brigandi; 13-20 River Road; Block 5612, Lot 11; minor site plan***

Upon motion by Joan Fragala and a second by Joseph Mele, the memorializing resolution was unanimously approved. AYES: Joan Fragala, Deputy Mayor Lefkowitz, James Hughes, Benjamin Bontekoe, Vice Chairman Mele

**General Public Comment**

Chairman Brent Pohlman opened the time for public comments and no public wished to be heard.

**Church in Nutley; 9-02 and 9-10 Saddle River Road; Block 1507, Lots 21 & 22; minor site plan and subdivision**

Andrew Karas, Esq., appeared on behalf of the applicant. He explained that public notice was filed with the board secretary. The applicant is seeking to utilize the building at 9-02 Saddle River Road as a house of worship. Since there are two lots with common ownership, they merge so the applicant is seeking a formal minor subdivision. They are also seeking variances that are existing conditions for the building coverage and the impervious coverage as well as the parking.

Matthew Fox, 6-20 Plaza Road, was sworn in and qualified as an expert engineer. He testified that he prepared the site plan dated May 28, 2014, that was marked as Exhibit A-1. He explained the plans in detail. He testified that they will be removing a portion of pavement in the rear of the property which offsets the installation of the sidewalk for handicapped access. Matthew Fox explained the parking in detail including the shared parking. A cross-easement parking agreement will be executed. He explained the buffer bordering the residences. There currently is a fence and large trees. There are no improvements to the site with the exception of the sidewalk, removal of some pavement and installation of the curbing. There is no change in the traffic patterns.

Mr. Fox testified that there are currently mature trees in an established buffer. Mr. Fox added that there would not be any room to put another fence in the area unless the trees were removed. He stated that they will monument the proposed lot line and explained the procedure. Mr. Fox explained the lighting on the property. It is lit by a series of building-mounted spotlights on the other building. This property relies mostly on street lighting. There is a small mounted light on the back of the building which provides a small amount of light without spilling onto neighboring properties. They do not intend on changing the lighting. He explained the runoff into the existing flush gate which is connected to the roadway collection system.

Oliver Wilhelm asked about the access for the handicapped and said he was concerned with the configuration. The spaces existing are only 16 feet deep rather than 18, and he would like the situation improved. Peter Kortright noted that the lot is not striped and the applicant agreed to stripe the lot. Mr. Kortright suggested using the entire driveway and the directional arrows should so indicate. He also suggested that the parking spaces be striped at 9 feet. Mr. Karas pointed out that they would lose two spaces. Peter Kortright stated that the last two spaces are seven feet wide and that is insufficient. Vice Chairman Mele stated he has concerns about the parking area. Mr. Fox stated when they relocate the existing spaces, they will move them back. Mr. Mele suggested that the buffer be supplemented with screening shrubs. Mr. Mele suggested a small area of pavement in that area be removed. Joseph Mele pointed out that the impervious coverage and building coverage numbers on the plan needed correction. He also was concerned about handicapped access, and Mr. Fox stated that they could extend the sidewalk another five feet.

Chairman Pohlman asked about the parking arrangement. Mr. Karas pointed out that the applicant is a house of worship and there is current case law that states that on-street parking can also be considered. He added that 43 parking spaces are being provided and 35 are required.

Chairman Pohlman opened the matter to the public for questioning of the witness.

John Setteducato, 27 Vivian Court, asked how large the congregation would be. Chairman Pohlman explained that is more appropriate for the applicant. Mr. Setteducato added there should be no changes to the buffer.

Rosa Shapiro, 39-22 Vanore Drive, stated that the traffic is terrible and it takes her 10 minutes to get out of Vanore Drive.

Frank Hall, Architect, 27 Chestnut Street, Ridgewood, was sworn in and qualified as an expert architect. He explained that he prepared the architectural plans. The plans, last revised February 11, 2014, were marked as Exhibit A-2. He explained the interior plans. The parking is calculated based upon the seats in the main worship area. There are 103 seats, and a space is required for every 3 seats. There are non-simultaneous uses in the building. The same people who attend the worship area subsequently divide into the smaller classrooms. A handicapped restroom is proposed. A small fellowship room with a warming kitchen is proposed. They converted some smaller spaces into classrooms. Mr. Hall testified that when the ADA laws were initially established, he was considered an expert in the field. He believes that this is not an unusual situation and provides proper access. Peter Kortright asked if the chairs in the main worship area are movable and was told they were. Mr. Hall explained that the number is based upon the actual number of people that will use the seats. Mr. Karas commented that any house of worship could add seats but the applicant is representing that 103 will be the maximum number. Mr. Hall explained that this number of seats allows for expansion. Mr. Mele commented that the walkway should be extended to the sidewalk. Chairman Pohlman asked about whether the building will have a sprinkler system, and Mr. Hall stated that issue has not been discussed.

Chairman Pohlman opened the matter to the public for questions of the witness.

No members of the public had any questions.

Seong Joshua Lim, of Palisades Park, New Jersey, was sworn in and stated that he has been a member of the congregation since 2004. He explained that the church was bible study centered. They meet once a week on Sunday from 10 a.m. to 12 p.m. They have a large meeting that lasts 45 minutes and then they break up into different groups. The congregation size is 66 people. Once they reach 100, they will branch off and start a new congregation as every member is a contributing member. The congregation currently meets at Paramus Catholic. He added that they are very strict about limiting the time to two hours and limiting the number of congregants to 100. Mr. Lim testified that this has been the practice of their religion for years and years. He explained that on Tuesday they meet once a month for a time of prayer. It is after work hours and is from 8:30 to 9:30 pm. The attendance is never more than 25. On Saturday from 6 p.m. to about 7:30 p.m., they have a young people's meeting consisting of junior high school students. Past practice has been that they meet at various homes. The only other time people would come to the site is for maintenance. He testified that there are no employees as each congregant contributes according to their measure.

Mr. Lim noted that the sixty members consist of approximately 20 families. Families travel to the site together. Mr. Lim also testified that he is fully familiar with the operations of the Church in Nutley and is authorized to speak on behalf of the congregation. He further testified that in the last three years, the church has not had more than 80 attendees. He added that 99% of the congregants are from Bergen County and half of the congregants come from Ridgewood and Fair Lawn. Mr. Lim testified that there are no paid teachers and there will be no childcare during the week.

Chairman Pohlman opened the matter to the public.

Yuliya Spivak, 10-01 Saddle River Road, asked how long the congregants stay in the building. Mr. Lim said by 1 p.m. all parishioners leave. In response to Ms. Spivak's question, Mr. Lim explained that if repairs are required, it would not happen every Saturday. He estimated that it would happen once a year. She asked about holidays. Mr. Lim explained that their group believes that resurrection is a daily reality so there are no special events. They do not carve out a day for celebrations since they believe it is a daily event.

Oleg Stephanos, 25 Vivian Court, asked if the church will be rented to outside parties. Mr. Lim responded emphatically that there will be absolutely no situation where they rent the building to anyone.

Chairman Pohlman recessed the meeting for 10 minutes at 9:50 p.m. The meeting was reconvened with all members present as previously stated.

Chairman Pohlman opened the matter to the public for comments.

Rosa Shapiro, 39-22 Vanore Drive, was sworn in and stated that she is a resident for 21 years. She commented that the building is ugly. Since they are changing the use, she would like to see more greenery. She is concerned about the parking at 9-10 Saddle River Road. She complained about the traffic on Saddle River Road, and believes this will contribute to the traffic and will cause a hazard.

Scott Tietjin, 30-46 Vanore Drive, was sworn in and was concerned about the driveway being directly across the street from his house. There has never been an overabundance of cars in that lot. His concern is the traffic and cars parking on Vanore Drive. He hoped the spaces would be brought up to code. He was concerned about the children playing on the street on Vanore Drive and the traffic.

Leo Peezman, 29 Vivian Court, was sworn in and stated that his backyard is adjacent to Lots 21 and 22. He added that the days they need privacy, namely, Saturday and Sunday, the church will be functioning. Some weekdays it will be functioning. There will be more and more people attending. He stated that no matter how many parking spots are projected, they will inevitably park in front of his house. He stated that he collected opinions of realtors and 76% thought this use would have an adverse impact on property values in the neighborhood.

Mr. Karas objected to the comments regarding property values, and Chairman Pohlman stated that the Board is well aware of the matters it may or may not take into consideration.

Mr. Karas stated that a house of worship is a permitted use in all zones in Fair Lawn. Mr. Karas added there is no evidence that this use will affect property values but in any event, property values cannot be taken into account by this Board. This site has existed for many years and there is no change to the traffic pattern. The applicant has agreed to move the parking spaces and make them 18 feet deep. Even if there were insufficient parking, case law pursuant to Lakewood Residents Assoc., 239 NJ Super. 89 states "the parking requirements for off street parking for houses of worship does not preclude consideration of other factors such as available on-street parking, the number of people who may occupy a vehicle and the number of people who may walk to the house of worship." He pointed out that several members live in Fair Lawn and there was testimony regarding families travelling together.

Chairman Pohlman summarized the conditions requested including restriping the ingress and egress, moving the markings closer to the driveway and indicating that the ingress and egress is for both properties, the parking lot to be restriped and the angled parking portion be made 18 feet deep subject to review by the Board Engineer, one-way traffic pattern, additional shrub screening along the west side if possible, the handicapped drop to be extended approximately five feet and sidewalk extended accordingly, stop bar coming out of the site, the tables to be corrected on the plan, subject to the submission of a cross-easement parking agreement, and the metes and bounds description to be submitted to Boswell Engineering.

Peter Kortright moved that the application be approved subject to the above conditions and Oliver Wilhelm seconded the motion which was unanimously approved. AYES: Deputy Mayor Amy Lefkowitz, Vice-Chairman Joseph Mele, Joan Fragala, Oliver Wilhelm, Benjamin Bontekoe, James Hughes, Peter Kortright, III, Daniel Furphy: Chairman Brent Pohlman

**Adjournment**

Deputy Mayor Lefkowitz moved that the meeting be adjourned and James Hughes seconded the motion at 10:15 p.m.

Respectfully submitted,

Cathryn Hochkeppel  
Sec'y of the Board