

## **REGULAR MEETING OF JANUARY 8, 2007**

The regular meeting of the Fair Lawn Planning Board of Monday, January 8, 2007, was called to order at 7:45 p.m. by Chairman Winston in the Council Chambers of the Municipal Building.

Notice of the Open Public Meeting Law was read stating that the newspapers were notified and notice posted on the first floor bulletin board of the Municipal Building.

### **ROLL CALL:**

Present: Deputy Mayor Marty Etler, Barry Winston, Todd Malkin, Joseph D'Arco, Peter Kortright III, Harvey Rubinstein, Michael Cohen, Alan Neggia, Larry Metzger, Honey Morgenstern, Phil Cassidy, Chairman Barry Winston. Also present: Engineer John Rottenbacher, Board Attorney Representative Marilyn Gittleman and Board Secretary Cathryn Hochkeppel.

### **Approval Of Escrow Bills**

Upon motion by Joseph D'Arco and a second by Alan Neggia, the escrow bills were unanimously approved. AYES: Todd Malkin, Joseph D'Arco, Peter Kortright III, Harvey Rubinstein, Michael Cohen, Alan Neggia, Larry Metzger, Barry Winston Abstain: Marty Etler

### **Approval of Minutes**

Upon motion by Todd Malkin and a second by Peter Kortright III, the work session minutes of November 13, 2006, were unanimously approved. AYES: Joseph D'Arco, Michael Cohen, Todd Malkin, Alan Neggia, Peter Kortright III, Barry Winston, Harvey Rubinstein ABSTAIN: Deputy Mayor Marty Etler, Larry Metzger

Upon motion by Todd Malkin and a second by Michael Cohen, the minutes of the December 11, 2006, regular meeting were unanimously approved. AYES: Joseph D'Arco, Michael Cohen, Alan Neggia, Peter Kortright III, Phil Cassidy, Harvey Rubinstein, Barry Winston, Todd Malkin ABSTAIN: Marty Etler, Larry Metzger

### **Memorializing Resolutions**

- **Osman Cakir; 25-07 Broadway; Block 3318.01 Lot 23; food handler**

Attorney Marilyn Gittleman explained the memorializing resolution. Upon motion by Alan Neggia and a second by Todd Malkin, the resolution was unanimously approved

AYES: Joseph D'Arco, Alan Neggia, Peter Kortright III, Phil Cassidy, Michael Cohen, Harvey Rubinstein, Barry Winston

- **Martin Miller; 22-08 Morlot Avenue; Block 3408, Lots 30-36; food handler**

Attorney Marilyn Gittleman explained the memorializing resolution. Upon motion by Todd Malkin and a second by Peter Kortright III, the resolution was unanimously approved. AYES: Joseph D'Arco, Alan Neggia, Peter Kortright III, Phil Cassidy, Michael Cohen, Harvey Rubinstein, Barry Winston

- **Broadway Adult Day Care Facility; 24-20 Broadway; Block 3219, Lot 1**

Attorney Marilyn Gittleman explained the memorializing resolution. Minor corrections were made at the suggestions of Todd Malkin, and Harvey Rubinstein. Upon motion by Todd Malkin and a second by Michael Cohen, the memorializing resolution, as amended, was adopted. AYES: Joseph D'Arco, Alan Neggia, Peter Kortright III, Todd Malkin, Phil Cassidy, Michael Cohen, Barry Winston.

### **General Public Comment**

Chairman Barry Winston opened the time for general public comment and no public wished to be heard.

- **Arthur Avenue; 17-17 Route 208 North, Block 4801, Lot 2, food handler**

Richard Ferrigno, Esq., appeared on behalf of the Arthur Avenue. He explained that there had been a café operating at this location previously and Arthur Avenue wanted to provide a food service to the employees.

Peitro Palmieri was sworn in and explained that he was one of the owners of Arthur Avenue. He stated that the intention was to move into the cafeteria space and provide sandwiches, muffins and coffee for the employees. There are no facilities to cook on the premises. Chairman Barry Winston commented that this was actually a benefit to the community as the employees would not have to leave the building at lunchtime causing less traffic.

Chairman Barry Winston opened the matter to the public and no public wished to be heard.

Todd Malkin moved that the application be approved as presented with the hours of operation to be 7:00 a.m. to 3:00 p.m. Peter Kortright III, seconded the motion which was unanimously approved. AYES: Joseph D'Arco, Alan Neggia, Marty Etler, Peter

Kortright III, Todd Malkin, Harvey Rubinstein, Michael Cohen, Larry Metzger, Barry Winston

• **Village Junction Project; 177 Lincoln Avenue; Block 6906, Lots 1, 2 and 76-82; site plan**

Colin Quinn appeared on behalf of the applicant. He explained that this was a continuation from December's meeting. The Board had heard testimony from Mary Scro, Architect and William Page, Engineer and Planner. The matter was continued in order to hear further comment from the public and to conclude the matter.

Chairman Barry Winston opened the matter to the public.

Greg Sedlacek, 14 Heights Avenue; Fair Lawn; was sworn in and asked about the land use regulations in this Borough Code and if the local code governed. Ms. Marilyn Gittleman explained that the Board was also bound by New Jersey's Municipal Land Use Law. Mr. Sedlacek pointed out that pursuant to 125.21C(3), the maximum number of units per building for townhouses is six and this is for seven. Mr. Quinn stated that pursuant to the Code, the development is not for townhouses but for multi-family flat line units. These are not townhouses. Mr. Sedlacek also stated that he works for a civil engineer. He is building a new house and has six inches of water in it. He is very concerned about the garages that are ten feet below the street level. He asked who would be responsible if they houses flood. John Rottenbacher explained the engineering review of the seepage pits. Their capacity is analyzed. There will be less run off from the property than currently exists. Mr. Sedlacek said he knows of instances wherein builders didn't anticipate the flooding that occurred. Chairman Barry Winston stated that although the Board members have a variety of skills and areas of expertise, they have to rely upon the professionals for design standards. Mr. John Rottenbacher's firm is known for their expertise in this area and the Board will rely upon them.

Mr. Harvey Rubinstein asked the Board Engineer if it is his opinion that the area will not flood. John Rottenbacher explained that he has not reviewed the final calculations but based upon his prior review, he does not foresee a problem. Any decision should be subject to his firm's review of the final calculating.

Amy Joyce; 52 Height Avenue; stated that it was mentioned that there would be five guest parking spaces. During inclement weather, some of the spaces will have snow on them. She asked how the neighbors could be sure visitors wouldn't be parking all over the neighborhood. Mr. Quinn explained that the plan was slightly revised to widen the driveway area resulting in the loss of one space. Each unit has two spaces plus there are four extra. It is designed to be self-contained. Ms. Joyce also questioned the method by which traffic is estimated.

Mr. Page was reminded that he had been sworn in at the last meeting. He explained that the trips are calculated based upon the busiest times and according to engineering standards. During the morning peak period one vehicle will be entering and two will be leaving the site. During the evening peak, three vehicles would be entering the site based upon the ITE standards.

Steve Brown of Height Avenue asked that the Board not grant variances for impervious coverage and lot depth. He also is concerned that it will create a dangerous situation as cars will use it as a cut through. He stated that it is unfair to the next-door neighbor to have a driveway 10 feet away. He commented that Fair Lawn is too dense already.

As no other public wished to be heard, Chairman Barry Winston closed the time for public comment.

Mr. Page explained that the plans were revised slightly in light of the Fire Department's comment and Mr. Harvey Rubinstein's comment. The revised plan was marked as Exhibit A-5. He explained that the driveway was widened as far as possible. Phil Cassidy asked how a ladder truck could maneuver in the area. Mr. Page explained the turning template. Harvey Rubinstein noted that it did not comply with the Fire Marshall's request. Honey Morgenstern asked how a fire truck would exit the site and Alan Neggia explained that a truck would have no trouble making a right turn out of the site. Mr. Quinn commented that in all likelihood a fire would be fought with equipment outside the site and it would be an unusual circumstance that a ladder truck would actually enter the site.

Harvey Rubinstein suggested that the applicant investigate purchasing the house next door. Mr. Quinn stated that his client has been working on the project for two years. The applicant has been compromising to a fault. He has revised the plans at the Board's suggestion and it is now time to give the applicant the courtesy of a vote. He stated that he believed it was a good application that complies with the zoning. There are two minor design waivers. One variance requested (lot depth) is existing. Although an impervious coverage variance is being sought, 35% of the property will be landscaped. The two variances are overwhelmed by the positive criteria. This is an enhancement to the community and there is no substantial detriment.

Peter Kortright III, moved that the application be approved noting that the site is currently an auto transmission use. He moved that the variances as to lot depth and impervious coverage be granted subject to snow removal be promptly removed, parking spots shall have consistent wheel stops, dedicated parking spaces for visitor parking labeled, no bedroom space in cellar, lower level units to maintain garbage in their personal garages, berm to be landscaped, lighting to be shielded, subject to Board

Engineer's approval of structural calculations and drainage calculations, all parking spaces striped, fire code official to review at the time of the issuance of the certificate of occupancy. Todd Malkin seconded the motion. Peter Kortright III stated that it is an existing auto transmission and the site could accommodate a busy auto transmission place. This is a real opportunity to clean up the site. It is a better design even though it is an awkward site the applicant has listened to many of our recommendations. Seven units will not be a burden, the applicant is providing substantial landscaping with the ten-foot trees to the area. This is an effective redevelopment of the site. Joseph D'Arco and Alan Neggia agreed and voted in favor of the application. Peter Kortright III and Todd Malkin also voted in favor of the development.

Harvey Rubinstein stated that it is never too late to change a plan for optimum usage and voted against the motion. Michael Cohen voted in favor of the motion and Phil Cassidy voted against it. Chairman Barry Winston stated that for the reasons sited noting that the site is currently a mess and that there is a developer willing to clean up the site, he was in favor of the application. Chairman Barry Winston added that he believes it is a significant upgrade to the area and meets all the criteria under Municipal Land Use Law. AYES: Joseph D'Arco, Alan Neggia, Peter Kortright III, Todd Malkin, Michael Cohen, Barry Winston NAYS: Harvey Rubinstein, Phil Cassidy

Upon motion by Michael Cohen and a second by Honey Morgenstern, the meeting was unanimously adjourned at 9:10 p.m.