

## **REGULAR MEETING OF APRIL 16, 2007**

The regular meeting of the Fair Lawn Planning Board of Monday, April 16, 2007, was called to order at 7:30 p.m. by Chairman Barry 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**

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

### **Escrow Bills**

Upon motion by Todd Malkin and a second by Joseph D'Arco the escrow bills were unanimously adopted. AYES: Chairman Barry Winston, Deputy Mayor Marty Etler, Todd Malkin, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen

### **Approval of Minutes**

It was noted that Todd Malkin was absent from the meeting of March 12, 2007. Upon motion by Harvey Rubinstein and a second by Deputy Mayor Marty Etler, the work session minutes were unanimously approved. AYES: Chairman Barry Winston, Deputy Mayor Marty Etler, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen Abstain: Todd Malkin Upon motion by Harvey Rubinstein and a second by Michael Cohen, the regular minutes of March 12, 2007, were unanimously approved. AYES: Chairman Barry Winston, Deputy Mayor Marty Etler, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen Abstain: Todd Malkin

### **General Public Comment**

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

### **IROJ Corp; 12-56 River Road; Block 5613, Lots 10-14, 24-25; food handler**

Dennis Frances, 37 Liberty Street; Little Ferry, New Jersey, appeared on behalf of the applicant. The application is a site plan/food handler's permit. He explained that he

represented a 24 hour Seven-Eleven occupying three quarters of the approved commercial space. Mr. Frances explained that Rahid Thabuta is the 100% owner.

Rahid Thabuta; 10 Gould Avenue; Paterson, New Jersey, was sworn in. He stated he is the 100% owner of IROJ Corp. The applicant has signed a lease with the landlord subject to this approval. He would like to be situated by June 15, 2007. The operation will be 24 hours a day, three shifts per day, and three employees per shift. A tractor trailer delivery will be made one time a week between 8:00 a.m. and 4:00 p.m. There will be no cooking on the premises except for microwavable food. No one will be sleeping on the premises. They are not seeking a sign variance at this time. Deputy Mayor Marty Etler stated he would not be in favor of a 24 hour operation since there are tenants above that area. Mr. Frances stated that the borough's ordinance allows for 24 hours. Deputy Mayor Marty Etler commented that perhaps that ordinance needed to be changed. Board members questioned whether they had worked with the River Road Improvement Company since the vision was for pedestrian traffic. The parking was questioned and Mr. Frances pointed out that the applicant is not seeking a parking variance. Chairman Barry Winston pointed out that River Road is narrow and he is concerned with a tractor trailer getting in and out. It was testified that the sign will conform to the borough's ordinance. A stop sign at the exit would be helpful. Todd Malkin questioned whether certain conditions of the original approval have been met. A plaque for the Fire Department was one of those conditions.

Harvey Rubinstein asked if the applicant would have a container or a dumpster and there was some confusion as to definitions.

Honey Morgenstern commented that the idea was that there would be four boutiques below. The apartments were to be upscale. The applicant would be below the residences. If the applicant is making coffee, microwavable food, etc. air purifiers might be investigated. She was also concerned about parking. Mr. Frances stated that neon signs will not be used in this store.

Mr. Thabuta explained that the ability to be open 24 hours entices them to come into this location. It is a policy of the Seven-Eleven chain. He stated that the deliveries could be sent in a box truck rather than a tractor trailer. The representative from Seven-Eleven explained the dumpster. There was some discussion about the 24 hour operation. Mr. Frances pointed out that the ordinance allows it and this Board cannot legislate it. Deputy Mayor Marty Etler commented that he sits on the Council and does have that power. Honey Morgenstern commented when this application was approved a convenience store was not contemplated. She stated that this completely contradicts the spirit of the application two years ago.

Armond Keurian, 7 Butler Road, Edison, New Jersey, was sworn in and stated he was a senior representative who scouted out this location. There was no restriction of the use in the approving resolution. They investigate the parking and the circulation in order to have a successful operation. Several members suggested that the applicant speak with the River

Road Improvement District. It was pointed out that there is another 24 hour operation on River Road in the Empress Diner. Mr. Keurian stated that there will be three people on each shift as a security measure. Each employee will have a panic button. There are security cameras.

Chairman Barry Winston opened the matter to the public.

Dr. Jeffrey Buckman, 12-55 River Road, Fair Lawn, New Jersey, stated he has been there 10 years and has seen River Road improve. He was against the original application. There was no mention of a 24 hour convenience store. Dr. Buckman asked how the traffic will be going in and out of the parking lot. Mr. Keurian stated that basically the residents park in the back of the building. He also wondered if there are enough parking spots for the applicant, customers and the tenants. Mr. Keurian explained that they investigate to make it convenient. The average time span a customer spends in the store is about 2 ½ minutes.

Mr. Frances explained that they are not seeking a parking variance. This is a minor site plan/food handler application and site plan issues were reviewed and approved in the original application. Mr. Frances said he doesn't want to turn this into a site plan application.

Mr. Keurian stated he believed there is a misconception. Customers spend 2 ½ minutes in the store. The parking would be a greater issue if there were four boutique type stores.

Dr. Buckman also expressed concern about people parking in front of his driveway as well as teenagers congregating. Mr. Keurian stated there will not be teenagers milling around as that would be detrimental to business. A woman, mother, father will not come to the store if there are teenagers who look threatening in the area. Dr. Buckman asked how they propose to take care of litter. Mr. Keurian stated that they have employees patrol six times a day at a minimum. If it is their garbage, they will be cleaning it up. Mr. Keurian said it is a policy to have staff pick up litter.

Mr. Greg Miller, 5 Ramapo Terrace, Fair Lawn, New Jersey, commented that the lot is narrow for wheeling out a garbage container. He also expressed concern about security for a 24 hour operation.

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

Larry Metzger stated that by having a 24 hour operation, you are limiting the type of tenants. Mr. Keurian explained the security cameras in the parking lot and on the front door as well as inside.

Chairman Barry Winston stated that River Road should be a quality place for its residents. The River Road Corporation is trying to bring more pedestrian traffic and this use would not be consistent with these goals.

Peter Kortright III, moved that this food handler be disapproved. There was some discussion and Mr. Frances asked that the matter be carried to the May 14<sup>th</sup> meeting. Peter Kortright III, commented that the hours of operation need to change. The Board suggested closing at 11:00 p.m. weekdays and at 12:00 p.m. weekends with an opening of 5:00 or 6:00 a.m.

Peter Kortright III, moved that the matter be continued to the next Board meeting. Todd Malkin seconded the motion which was unanimously adopted. AYES: Deputy Mayor Marty Etlar, Todd Malkin, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen, Chairman Barry Winston Honey Morgenstern left the meeting.

### **NYSMA; One Cooper Way; Block 3516, Lot 1.01; site plan approval**

Deputy Mayor Marty Etlar recused himself. Michael Beck, Esq., appeared on behalf of the applicant. He explained that the applicant was adding additional antennae and 670 feet of impervious coverage for the mechanicals.

Dianne Kidwell, 63 Beaverbrook Road, Lincoln Park, New Jersey, was sworn in. She explained that she has a bachelors degree in chemistry and the last 17 years has worked as a safety health and compliance manager. Ms. Kidwell's report was marked as Exhibit A-1. She explained the report indicating that it would be in compliance with federal and state regulations. She explained that when you add the effect of the proposed wireless facility, the worst case situation would be 5.15% of the FCC limit. She explained that this is assuming that all the carriers and all facilities are at 100% power all of the time and that all of the antennae are in the same horizontal plane which is not possible. She added that the antennae are clearly not all going in the same direction.

Harvey Rubinstein asked about signage and whether warnings should be placed. Ms. Kidwell explained that there is no need for a warning sign for the public. Sometimes signs are placed in certain areas for the workers who maintain the equipment.

Joseph D'Arco asked about the structural integrity of the pole since it was reinforced when the last antennas were added. Mr. Beck stated that would best be answered by the structural engineer.

Michael Littman was sworn in and qualified as a radio frequency expert. He stated he reviewed and signed the report marked as Exhibit A-1 and it is 100% accurate. He explained the gaps in the coverage and the sheets he prepared which were marked as Exhibits A-2 and A-3. The second overlay which depicted the coverage if this application is approved was marked as Exhibit A-4. He explained how the coverage worked and the importance of overlapping coverage. He testified that this will not interfere with any other provider or emergency services. Michael Cohen asked how there could be a small area of

coverage disconnected from the bulk of the coverage. Mr. Littman explained that coverage is dependent on tree foliage and terrain limitations. Mr. Littman added that a technician comes out every four to six weeks to check the equipment.

Peter Kortright III, asked how the applicant rectifies the minor patches. He explained that they look to optimize the system in place and if they cannot, they find a new site in the area.

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

Board Engineer John Rottenbucher asked that the structural engineer address each of the questions in his letter of March 28, 2007.

Frank Colasurdo, 33 Woodport Road, Sparta, New Jersey, was sworn in and qualified as an expert engineer. He explained the co-location at a height of 82 feet. He also explained the prefabricated shelter which is made off-site. It was suggested that the sand color be used. It is unmanned. The only traffic it will generate is a routine maintenance visit. If everything is working properly, the technician is gone within an hour. Mr. Colasurdo testified that it does not emit any smoke or odor. He explained that this facility will not affect in any way the site plan this Board approved with regard to the Ambulance Corp. He presented a structural report marked as Exhibit A-5 and a noise report marked as Exhibit A-6. There will be an acoustical hood over the equipment. He testified that there are no safety concerns. It is unmanned. The applicant will obtain any approvals necessary. Joseph D'Arco asked about the structural integrity if there are any more antennas added. Mr. Colasurdo testified that the pole has the capacity to handle these antennae but no other antennae could be added without structural modifications to the pole.

Will E. Masters, Jr., Morris Plains, New Jersey, was sworn in and was qualified as an expert professional planner. He explained that the proposed use is permitted. The primary use is an ambulance squad and there is also an existing 118 feet tall monopole. The applicant is co-locating at 82 feet and would be the fourth co-locator on the monopole. There is also a satellite radio carrier on this pole. He testified that co-location is a desired objective. The only variance requested is a bulk variance from the maximum impervious coverage. The existing coverage will be increased by 1.4%. Mr. Masters testified that the variance relief qualifies under the C(2) standard for relief in that the proposed variance relates to the specific piece of property, the variance can be granted with substantial detriment to the public good and the variance will not impair the zoning ordinance. A photo simulation prepared by Mr. Masters was marked as Exhibits A-7 and A-8. He testified that the nature of the variance relief of 1.2% increase in impervious coverage represents a far better zoning alternative than constructing a new monopole.

Mr. Harvey Rubinstein asked about the landscaping and Mr. Masters replied that the compound area is located to the rear of the site. The expansion will back up against the embankment of Route 208.

Larry Metzger asked about security and Mr. Masters explained that there are sensors that would notify the home office if equipment was being tampered with.

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

Todd Malkin moved that the application be approved granting the impervious coverage variance requested. Michael Cohen seconded the motion which was unanimously adopted: AYES: Chairman Barry Winston, Todd Malkin, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen

**Glen Rock Hot Bagels; 24-18 Maple Avenue; Block 5409, Lots 6,7 & 18; site plan**

Jeffrey Wilson, 50 West Ridgewood Avenue, Ridgewood, New Jersey, Attorney for the applicant, explained this application is for an upgrade for an existing property that was previously the site of Decker Dodge used car lot. It has been vacant for sometime. The applicant is seeking to expand from 1,600 square feet to roughly a 3,500 square foot building. The applicant will ultimately be the primary tenant and he will be relocating his business into this facility with one or two other tenants. A parking variance is being sought as 23 spaces are required and 21 spaces being provided. Mr. Omar will be the primary tenant. He has been operating bagel shops throughout New Jersey.

Samuel Eli Omar was sworn in and stated he owned Glen Rock Hot Bagels and has a big interest in moving to this location. He explained that since he graduated from college, he has been operating bagel stores.

Peter Kortright III, stated this is a definite improvement to this property, but wanted the applicant to be aware that intersection improvements are contemplated and there might be right-of-way or eminent domain issues. Deputy Mayor Marty Etler commented that we can't hold up this application because of what might happen in five years. Peter Kortright III, explained some of the recommendations made by the planner when and if Nabisco leaves the area.

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

Demetrios Kaltsis, of North Bergen, New Jersey, was sworn in and qualified as an expert architect. He explained the architecture plans in detail. It will be a stucco finish. Each of the tenants will have their own sign which are panel illuminated. It is in conformance with the zoning ordinance within the borough. There are no variances with regard to the structure. The largest area is the bagelry. There is no second story.

Joseph D'Arco asked about the environmental issues. Mr. Wilson explained that prior to Mr. Omar purchasing the property, they made sure that the ECRA documentation was satisfactory and DEP's approval had been issued.

Sherrill Rimnbrant, 52 Harristown Road, asked about the possibility of a convenience store in that area. Mr. Wilson stated that it would not make sense that the owner would put a competing business next door.

No other public wished to be heard and Chairman Barry Winston closed the time for public comment.

Bruce Rigg, 1000 Maple Avenue, Ridgewood, New Jersey, was sworn in and qualified as an expert engineer. He explained the plans which he prepared. Mr. Riggs stated this is an isolated triangle of Fair Lawn. The existing building will be expanded and doubled in size. The applicant will use the existing driveway and make it work a little better because there is a lot going on in the corner. The loading zone in the rear is for all tenants. There are 21 parking spaces along the northerly parking line. They had bollards along the Rimnbrant's building and are adding one at space 14. The site conforms in every other way except for the existing side yard setback which is 8.8 feet where 10 feet is required. The proposal squares off the parking lot in the rear and allows for truck circulation. A parking variance is being requested. Twenty-three parking spots are required and 21 are being provided. It is in the owner's best interest for the parking to work efficiently for the convenience of his customers. A sign variance is being requested as 18 inch letters are proposed where 16 is permitted. Two waivers were being requested. Contours within 200 feet were not submitted. The applicant is also requesting a waiver of an environmental impact report. The site is 97% paved now. The applicant is reducing the paving and adding landscaping. The lighting will be upgraded as shown on the site plan. Mr. Rigg explained they will be connecting to Ridgewood water and to Glen Rock sewer. There is an existing storm drain and the applicant will be replacing it with a new drywell system. There will be zero run off from the site. Mr. Rigg explained that because of all the cars, there are many spot lights shining on the site and the applicant is proposing less light.

Mr. Rigg explained that landscaping is being added along the southerly side of the property. There will be a new sidewalk. Board Engineer John Rottenbucher asked if there was an agreement with Glen Rock for sewer and Mr. Rigg explained that he is aware of an agreement.

Harvey Rubinstein asked if the curb was high enough at spaces 14-21 and was told it was adequate. He asked about landscaping in that area and Mr. Rigg stated there is an area where low landscaping can be added. Harvey Rubinstein also suggested a no left turn sign. Peter Kortright III, agreed that a no left turn sign be added. He asked if Mr. Omar had investigated buying the tiny triangular piece adjacent to his property and Mr. Omar replied that he had but the price was \$500,000.00.

Dr. Charlie Knapp, Maple Avenue, asked whether he planned on renting to a dentist and Mr. Omar said no. Mr. Omar stated he is considering an optometrist.

Todd Malkin moved that the application be approved granting the parking and sign variance together with the existing side yard setback subject to installation of a bollard at parking space 14, no left turn sign being installed and low rise planting along the sidewalk not to interfere with the site triangle. Harvey Rubinstein seconded the motion which was unanimously approved. AYES: Chairman Barry Winston, Deputy Mayor Marty Etlar, Todd Malkin, Peter Kortright III, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Larry Metzger, Michael Cohen.

Upon motion by Michael Cohen and a second by Todd Malkin, the meeting was unanimously adjourned at 11:20 p.m.

Respectfully submitted,

Cathryn Hochkeppel  
Secretary to the Planning Board

CH:blcl