

REGULAR MEETING OF MAY 14, 2007

The regular meeting of May 14, 2007, was called to order by Chairman Barry Winston at 7:30 p.m. The notice of the Open Public Meeting Law was read.

ROLL CALL:

Present: Harvey Rubinstein, Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Phil Cassidy, Michael Cohen, Chairman Barry Winston, Honey Morgenstern

Also present: Board Engineer John Rottenbacher, Attorney Marilyn Gittleman, Board Secretary Cathy Hochkeppel

Approval of Escrow Bills

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

Approval of Minutes

Upon motion by Todd Malkin and a second by Michael Cohen, the minutes of the April 16, 2007, work session were unanimously approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

Upon motion by Todd Malkin and a second by Michael Cohen, the minutes of the April 16, 2007, regular meeting was approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

General Public Comment

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

Memorializing Resolutions

Vision Properties of Fair Lawn; 2-22 Banta Place, Block 3330, Lots 1.01, 2 & 3

Marilyn Gittleman, Esq., explained the memorializing resolution and the conditions. Upon motion by Peter Kortright III, and a second by Michael Cohen, the memorializing resolution was unanimously approved. AYES: Joseph D'Arco, Alan Neggia, Deputy Mayor Marty Etler, Peter Kortright III, Phil Cassidy, Michael Cohen, Harvey Rubinstein, Larry Metzger, Chairman Barry Winston

SMSA Limited Partnership; One Cooper Way, Block 3516, Lot 1.01; site plan

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

Glen Rock Hot Bagels; 24-18 Maple Avenue; Block 5904, Lots 6, 7 & 18

Alan Neggia commented he is concerned about the sewer line connection. He would like the neighboring residents to have the opportunity to connect to the sewer when the contractor lays the line. It was noted that additional conditions could not be added after the hearing. It was suggested that the contractor be encouraged to contact the neighbors. Marilyn Gittleman, Esq., explained the memorializing resolution. Upon motion by Todd Malkin and a second by Michael Cohen, the memorializing resolution was unanimously approved. AYES: Deputy Mayor Marty Etler, Todd Malkin and Peter Kortright III.

Gary Haar; Dunkin Donuts; 22-20 Fair Lawn Avenue; Block 3609, Lot 13; food handler

Gary Haar; 474 Hartung Drive; Wyckoff, New Jersey was sworn in. He explained that he wants to open a Dunkin Donuts at the Exxon station. He testified he will maintain the existing seating. He will not be cooking at the premises as he bakes in his store in Wyckoff. Harvey Rubinstein commented that the dumpster area is in need of improvement but it was noted that it is the owner's dumpster. Michael Cohen asked if he was having both brands and Mr. Haar stated that it would be virtually impossible to have both brands due to the size. The gas station is open twenty-four hours.

Chairman Barry Winston asked if he is aware of people gathering late at night. Mr. Haar stated when he purchased the Dunkin Donuts at the Plaza Building, it was open

24 hours. As soon as Dunkin Donuts would let him, he changed the hours to close at midnight. More often than not, there aren't issues with teenagers.

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

Todd Malkin moved that the application be approved Michael Cohen seconded the motion which was approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Michael Cohen, Chairman Barry Winston NAY: Joseph D'Arco

Broadway Food Palace; 23-08 Broadway; Block 3219.01, Lot 14

Ira Levine appeared on behalf of the applicant. He explained that retail is permitted in the zone and the proposal is for take-out only.

Gary Weiss, Washington Township, was sworn in and stated he is the owner. Deputy Mayor Marty Etler commented that they will need to have a ventilation system and Mr. Weiss stated it will be to code. Chairman Barry Winston reminded the applicant that no chairs or tables could be added. Mr. Weiss testified that there will be no seats whatsoever. He plans on local delivery. The main business is grocery and deli. Mr. Weiss stated that although he has not been in the food business, he has owned his own business for 20 years.

Mr. Weiss stated he will have several employees and plans on hiring employees from the Borough of Fair Lawn. Mr. Weiss testified that he spent time in the parking lot and there is always available parking.

Deputy Mayor Marty Etler asked about the cooking method and Mr. Weiss explained that there will not be a lot of smoke. He is using a company to ensure it is properly ventilated in accordance with the code. Mr. Weiss explained he will follow local rules and install whatever devices are required. Todd Malkin asked about the food. Mr. Weiss explained that he planned on serving healthy and organic food. Also, groceries will be available. Mr. Weiss testified the hours will be 8 a.m. to 10:00 p.m. There are two entrances, one in the rear and one in the front. Greg Gebeckian was sworn in and testified he was employed by the Hekemian Company that manages the property. He testified that there are about 156 parking spaces from Blockbuster to the check cashing store for a total of eight stores. It is a shared parking situation and all the tenants use the parking lot. There are no violations on this property. Harvey Rubinstein stated there are potholes in the lot. Mr. Gebeckian said winter just ended and they have a maintenance plan to take care of it. Harvey Rubinstein indicated that the door to the dumpster area was open. Mr. Gebeckian replied it should not be left open and there

are doors that should remain closed. Larry Metzger asked about the availability of parking spaces during peak hours at the spa. Mr. Gebeckian replied that he had been involved with this property for many years and has never had a problem finding a parking space on the site.

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

Todd Malkin moved that the application be approved conditioned on the fact that there will be no seating. Michael Cohen seconded the motion which was adopted. Chairman Barry Winston stated that he was concerned about the parking and the impact on the residents. AYES: Joseph D'Arco, Alan Neggia, Deputy Mayor Marty Etler, Peter Kortright III, Todd Malkin, Harvey Rubinstein, Michael Cohen, Larry Metzger NAY: Chairman Barry Winston

Honey Morgenstern left the meeting at 8:30 p.m.

The Wallace Properties; 12-45 River Road, Block 5611, Lots 61-63; site plan

Stuart Liebman appeared on behalf of the Wallace property Group. He explained that currently there is a one-store building on the site that is a little run down. The application is for a two-story all commercial building. The building will be 5,694 square feet. There are 15 parking spaces on the site. With this addition, 30 spaces will be required. The applicant has agreed to participate with the Borough and to allow common access and cooperative parking at such time as that type of agreement is made. The other variances requested are existing conditions, which are the side yards. Also existing is nonconformity for the 91% impervious coverage. The applicant wants to continue to maximize the parking and does not want to compromise the drive aisle or a row of parking spaces. This application will be a vast aesthetic improvement.

Brian Callahan was sworn in and qualified as an expert architect. He stated he prepared the architecture plans. The color photograph of the existing building was marked as Exhibit A-1. He explained the building. A copy of the plan (sheet number A-1) was marked as Exhibit A-2 and depicted the proposed first floor plan. A small change was made recessing the egress door so that it does not encroach on the drive aisles. The applicant will also install a convex mirror so that pedestrians have a clear line of site.

A depiction of the proposed building was marked as Exhibit A-3. The total floor area of the proposed building will be 5,694 square feet. The proposed building height will be 29.4" which is less than the maximum permitted in the zone. The signage will be

consistent with the River Road program and in the event the signs do not comply with the code, the applicant will come back to this Board for a sign variance.

Mr. Callahan testified that the upper floor will be all office space and the lower floor will be retail and/or office or a combination thereof. He explained the stairwells and vertical circulation of the building. Mr. Callahan testified that it is a vast aesthetic improvement and is consistent with the development pattern on River Road. He stated that the benefits greatly outweigh any detriments. Mr. Callahan testified that there will be some sort of security system.

Harvey Rubinstein asked about the parapet and was told it is basically for aesthetics. Larry Metzger asked about handicapped accessibility and Mr. Callahan stated that the front of the building will be handicap accessible and they will follow the code. Phil Cassidy asked about accessibility to the second floor and was told that the applicant would not be required to provide an architect.

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

Stuart Liebman added that the building access is not yet set as it is tenant driven. The applicant cannot tell exactly how it will be set up but will certainly make it as safe and secure as possible.

Massimo Piazza was sworn in and qualified as an expert engineer and land surveyor. Mr. Piazza testified that he prepared the site plans. Sheet C-1 of the site plan dated May 12, 2006, was marked as Exhibit A-4. He explained the location. He testified to the existing conditions. He explained the zoning requirements testifying that variances required included a minimum interior side yard of 7.53 where 12 feet is required (existing nonconformity) minimum rear yard 20 feet (existing nonconformity), other side yard of 10.25 is an existing nonconformity; and 90% impervious coverage is required where 91.5% existing. A rear buffer of 5 feet is required. There are existing wheel stops along the property line. The applicant is maintaining the aisle width and parking along the rear line as presently exists.

Chairman Barry Winston announced that the Rahuba subdivision application will be carried to the June 11, 2007, meeting due to time constraints.

A proposed buffer sketch indicating a triangular buffer was marked as Exhibit A-5. The proposed fence detail was marked as Exhibit A-6. The buffer would be 3.89 feet to zero feet. The other side of the proposed fence is the fire department's parking lot. Mr. Piazza explained if the buffer is inserted, the parking lots would not be aligned and would break up the flow on the south side.

There was some discussion of the fence. Todd Malkin said the proposed fence is the one suggested by the River Road Improvement Company and will be consistent with what was already approved. Harvey Rubinstein asked about the curb line and if it could be tied into the existing curb. Mr. Piazza explained it was not possible.

Mr. Liebman explained that the applicant is willing to enter into a plan for cooperative parking when it is established. The design is such that there is no impediment to going into the other parking areas. Mr. Piazza explained the traffic flow and stated there are no changes to the flow. The neighbors share the entrance and exits and the curb cuts are the same as on River Road. Mr. Liebman explained that there are no written documents of record relative to easements.

It was explained that the owner has a private hauler come in and remove garbage on a scheduled basis. Since parking is at a premium, a dumpster would create loss of a parking space. Mr. Piazza testified that he will continue to work with Boswell Engineering regarding the three drainage pits and will conform to Boswell Engineering's requirements. Mr. Piazza also advised that the applicant will install back shields on the lights. He further testified that there have been no changes since the environmental report was prepared. The applicant has made a request for a waiver of the site plan from the Bergen County Planning Board and Mr. Piazza added that he believes the project will certainly enhance River Road. The granting of the variances would not cause any detriment to the surrounding area and the benefits outweigh any negatives. Deputy Mayor Marty Etlar commented that he believes there should be a dumpster.

Don Smartt, project director of River Road, was sworn in and testified that he believes it is a good project and would hope that the applicant would lease spaces from the Borough. The River Road Improvement Company would also encourage them to enter into a formal parking agreement with the neighboring property owner. Don Smartt added that this type of development is consistent with the River Road master plan.

After some discussion, Stuart Liebman represented that the applicant would be willing to lease one space from the Borough and enter into an agreement with the Borough that access from their property will be permitted.

Harvey Rubinstein asked about the isolux lights and Mr. Piazza stated the applicant will provide back shields.

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 variances subject to installing back shields on lighting, installation of a dumpster, willingness to lease one space from the Borough and enter into an agreement with the Borough to provide access, door to be recessed three feet and installing a fence as proposed. Michael Cohen seconded the motion. Harvey Rubinstein commented that something should be done about the roofing truck situation since they occupy half of the spaces. Peter Kortright III replied that a condition can not be imposed if there was no discussion on the subject. Upon roll call vote, the motion was adopted. AYES: Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston NAY: Harvey Rubinstein

Chairman Barry Winston recessed the meeting for five minutes at 10:15 p.m. The meeting was reconvened at 10:20 p.m. with all members present as previously indicated.

The Cohen Plaza; 11-17 Plaza Road; Block 3513, Lots 1-11 & 18-23; site plan

Mr. Joshua Levine appeared on behalf of the applicant. He pointed out that the applicant was seeking a revised site plan.

Joel Ives was sworn in and qualified as an expert architect. He explained the colorized renderings that were marked as Exhibit A-1. He indicated that they were the same plans previously presented but were colorized. The existing building is relatively small and the applicant wants to have a properly sized bathroom and an accessible area. There is a craft area and pass through window that will go through the kitchen. Mr. Ives explained that the kitchen will be a warming kitchen and food will be delivered to it. He pointed out that the kitchen was designed for kosher food. They are adding residential qualities to the building which allows them to put the mechanicals on the roof and hide from the public. The roof will be only 16.6 feet high. The existing building is 12.5 feet. The permitted maximum height of the roof is 30 feet high.

Mr. Ives testified that he believes this design is consistent with the neighborhood. The application would not be detrimental to the area. Mr. Ives stated that he believed it would be an improvement to the area.

Todd Malkin asked about playroom one and was concerned about security as there was a door access.

Joshua Levine said they are required to meet certain standards. They will be licensed and approved by the State and will meet all safety requirements.

Mr. Matthew Fox, 6-20 Plaza Road, Fair Lawn, New Jersey, was sworn in and qualified as an expert engineer. He testified that the existing inlet and connecting storm pipe would function adequately. He added that the applicant has satisfied all the conditions of the prior approval. The plan will be consistent with the neighborhood. The roof lines are more residential and will be more consistent with the house across the street.

Peter Kortright III asked about the landscaping. Mr. Fox stated they had prepared a landscaping plan submitted with previous approval. Peter Kortright III stated he would like to see trees. The Fire Marshall has suggested the installation of a fire hydrant and eliminating one parking space adjacent to the building's main entrance. The applicant will comply with their request.

Harvey Rubinstein asked about the circulation of the parking lot. Mr. Fox explained the traffic flow and stated there was no intent to use the temple property for vehicle exit or entrance. Mr. Fox stated that the applicant can mark the lot with arrows for traffic circulation.

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

Ms. Iris Cohen, 88 Lillac Lane, Paramus, New Jersey, was sworn in. She stated she was the owner of the property. She testified that there are no other child care centers within 750 feet. She explained that the children go outside in groups and they never take all the children outside at once. Ms. Cohen stated that she has been in business for 11 years. She explained she has approximately 30 children and will be able to increase that amount by 20-30 children. She explained that 7:30 a.m. to 5:30 p.m. are the hours of operation Monday through Thursday and ending at 4:00 p.m. on Friday.

In response to Dr. Cohen's question, Ms. Cohen stated she believed she will have about six employees. Harvey Rubinstein asked if the applicant would be willing to install two trees in front of the Borough and pay its fair share and Mr. Levine stated that the applicant would be willing to do so. Chairman Barry Winston asked about expanding the use beyond the day care center and if it would be used for any other purpose. Ms. Cohen testified that she would not be renting out the premises and that the only other possible use would be a Sunday morning Hebrew school.

Alan Neggia asked about the hydrant and water service. The applicant agreed to put in a hydrant and service will be provided from Plaza Road.

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

Peter Kortright III, moved that the application be approved subject to no other use than day care/nursery school/Kindergarten, Monday through Thursday 7:30 a.m. to 6:00 p.m. and 7:30 a.m. to 4:00 p.m. on Friday and the only other possibility being a Sunday school, the applicant is to abide by the Fire Marshall's letter and the planting or contribution towards two trees off-site in front of the plaza. Michael Cohen seconded the motion which was unanimously adopted. Chairman Barry Winston complimented the applicant on the improvement and wished her well. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Chairman Barry Winston

Upon motion by Peter Kortright III, and a second by Todd Malkin, it was unanimously agreed to dismiss the food handler application of Seven-Eleven; 12-56 River Road; Block 5613, Lots 10-14, 24 & 25.

Upon motion by Harvey Rubinstein and a second by Todd Malkin, the meeting was unanimously adjourned at 11:00 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Land Use Administrator/
Secretary of the Planning Board

CH:blcl