

REGULAR MEETING OF JUNE 11, 2007

The regular meeting of June 11, 2007, was called to order by Vice Chairman Peter Kortright III, at 7:35 p.m. The notice of the Open Public Meetings Law was read.

ROLL CALL:

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

Also present: Board Engineer John Rottenbucher, Board Attorney Douglas Bern, 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, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

Vice Chairman Peter Kortright III, announced that the Walter Enders application for 7-07 Fair Lawn Avenue, would be carried to the July 16, 2007, meeting without further notice.

Approval of Minutes

Upon motion by Todd Malkin and a second by Michael Cohen, the minutes of the May 14, 2007, work session were unanimously approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman 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 Chairman Barry Winston, the minutes of the May 14, 2007, regular meeting was approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman Peter

Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

MEMORIALIZING RESOLUTIONS

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

Board Attorney Douglas Bern explained the memorializing resolution and the conditions. Upon motion by Deputy Mayor Marty Etler and a second by Todd Malkin, the memorializing resolution was unanimously approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Michael Cohen, Chairman Barry Winston

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

Board Attorney Douglas Bern explained the memorializing resolution. Upon motion by Todd Malkin and a second by Michael Cohen, the memorializing resolution was unanimously approved. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Michael Cohen, Joseph D'Arco

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

Board Attorney Douglas Bern explained the memorializing resolution. The Board discussed the resolution and minor amendments were made. Upon motion by Todd Malkin and a second by Michael Cohen, the memorializing resolution was unanimously adopted. AYES: Alan Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Michael Cohen, Joseph D'Arco, Chairman Barry Winston

The Cohen Plaza; 11-16 Plaza Road; Block 3513; Lots 1-11 & 18-23; site plan

Board Attorney Douglas Bern explained the memorializing resolution. Upon motion by Todd Malkin and a second by Michael Cohen, the memorializing resolution was unanimously adopted. AYES: Harvey Rubinstein, Alan

Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Michael Cohen, Joseph D'Arco, Chairman Barry Winston

General Public Comment

Vice Chairman Peter Kortright III, opened the matter to the public and no public wished to be heard.

IROJ; 12-56 River Road; Block 5613, Lots 10-14; food handler

There was some discussion regarding procedures and Todd Malkin moved that the application be reinstated. Michael Cohen seconded the motion which was unanimously adopted. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

Diamond Bridge, Inc., 12-76 River Road; Block 5613, Lot 2; food handler

Michael P. DeMarco appeared on behalf of the applicant. Maria Genecarelli, 364 Diamond Bridge Avenue; Hawthorne, New Jersey, was sworn in and stated that she is the owner of the restaurant. She explained that she had operated a similar type of business at that location and now wanted to go back to that location. No changes are being made. She testified that there would be no changes in signage except the name. They intend to operate six days a week, from 10:00 a.m to 10:00 p.m. and the application was amended accordingly. She anticipated having three other employees. The number of seats will remain the same with 25 seats. She explained that they maintained a private dumpster.

Deputy Mayor Marty Etler asked about the cooking and was assured that it was not charcoal or wood burning that would generate odors or smoke. Todd Malkin asked about the dumpster in the back and the barrels. Ms. Genecarelli replied that she is cleaning up the area. Harvey Rubinstein pointed out that there was no address on the building and it was explained that the glass door was just replaced and the address will be added. Larry Metzger asked about the oil barrels and Ms. Genecarelli explained that they are picked up by a private company. The restaurant will be called Mario's.

Vice Chairman Peter Kortright III, opened the matter to the public and no public wished to be heard.

Todd Malkin moved that the application be approved noting that the rear yard will be cleaned including barrels and that the hours of operation to be 10:00 a.m. to 10:00 p.m. six days a week. Michael Cohen seconded the motion which was unanimously adopted. AYES: Harvey Rubinstein, Alan Neggia, Larry Metzger, Vice Chairman Peter Kortright III, Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Michael Cohen, Chairman Barry Winston

Rahuba, 2-36 29th Street; Block 3308, Lots 5-9; minor subdivision

Ira Levine appeared on behalf of the applicant. The three witnesses, Henrique Rahuba, Roger Dinicia and Matthew Fox were sworn in. Matthew Fox qualified as an expert engineer. He explained that he prepared the plans.

Matthew Fox stated that Mr. Rahuba proposes to subdivide his property in half and construct a one-family residence on lots 7 and 8. He explained the existing conditions and the general vicinity of the parcel. He explained that his client intends to pursue constructing another single family residence on lots 5 and 6 as it would not be beneficial to repair the existing old dwelling. He hopes to knock that dwelling down and construct a new dwelling.

There is a variance for impervious coverage for the existing structure. The proposed new lot will meet the impervious coverage requirements. Matthew Fox explained the variances requested which include lot width and area, front yard setback (existing), side yard setback, and impervious coverage. The minor subdivision plan revised April 19, 2007, and was marked into evidence as Exhibit A-1.

Board Engineer John Rottenbacher stated that the revised plan dated April 19, 2007, complied with their report.

Honey Morgenstern commented that currently the property has only one variance and this plan creates several.

Harvey Rubinstein asked about the height of the building and Matthew Fox explained that 30 feet is to the mean. At this time, he does not have a finished architectural plan that shows the maximum peak.

Vice Chairman Peter Kortright III, opened the matter to the public.

Ethan Kolpakchi, 2-33 28th Street; Fair Lawn, New Jersey, asked why variance were being applied for and why the Borough ordinances are not being complied with. Board Attorney Douglas Bern explained the process and the burden of proof on the applicant.

Mr. Dinicia of Burton Engineering, 66 Glen Avenue in Glen Rock, qualified as an expert planner. He explained the application and indicated he reviewed the zoning ordinance as it pertains to the application.

He explained the site as presently exists. He presented photos that he represented were taken by him that were marked as Exhibit B-1. The current house is a relatively small dwelling and it is in need of substantial improvement. He explained the site in detail.

Mr. Dinicia testified that the house would be suited for smaller households and is a valuable housing resource. There are few opportunities for a new single family dwelling in northern New Jersey and Bergen County.

Mr. Dinicia explained the neighborhood which is varied. He explained that many of the 25 foot lots were consolidated. There are varied lot sizes and the widths of the lots range from 50 feet to 100 feet. There is no uniform or distinct pattern in the area. There is not one style or one size of house. There is no distinct pattern that would be interrupted by granting the variances.

A copy of the tax map with the subject site highlighted was marked as Exhibit A-3. He explained that the neighborhood has a variety of lot sizes and a variety of housing types and architectural styles. The houses tend to fit the lot size. Deputy Mayor Marty Etler commented that the application is straight forward.

Mr. Dinicia stated that all of the bulk standards can be met with the development of two homes suitable and is an appropriate development in the R-1-3 zone district.

Todd Malkin indicated many of the lots are larger than sixty feet wide. Mr. Dinicia stated that these lots would not be out of character although they would be smaller. More than 50% in the area are nonconforming. It is not necessarily a negative characteristic of the neighborhood.

Mr. Dinicia testified that municipal land use law has two sets of criteria in allowing the Board to grant the variances. Pursuant to NJSA 40:55 D-7 C (2), the Board can grant bulk variances if granting those variances promotes planning benefits provided they outweigh any detriments. The first benefit would be what is likely to be developed on this lot. There could be a very large home built on this tract. Also, there is a need for smaller new homes. The two new houses would not be oversized.

Vice Chairman Peter Kortright III, recessed the meeting at 9:15 p.m. for five minutes. The meeting reconvened at 9:20 p.m. with all members present as previously indicated.

Mr. Dinicia also testified that there are benefits to both houses conforming to the setbacks. Meeting the setback requirements advances these purposes of M.L.U.L. Under Paragraph G relates to the appropriateness of the application which is a permitted single family use and that is what is proposed. It is an established residential area. Chairman Barry Winston stated that Mr. Dinicia keeps referring to two new houses. The plans presented to the Board show one new house and keeping the existing house.

Todd Malkin commented that the Board should see the plans for the one dwelling. There is no information. The plans do not reflect the drainage requirements. Todd Malkin pointed out that it is totally different. There is a second structure and the engineer has not presented plans. The Board needs to know the plans for the proposed structure. Mr. Dinicia explained that the application would not result in detriment if there are two new homes on the property and it would not have a substantial impact on the area because the proposed lots would conform to the character and all the setbacks can be met. The impact of the properties would be consistent with the development pattern. He added that there would be no substantial impact except that there will be a building where no building exists. He further stated that the houses that will potentially exist will be consistent with the houses in the neighborhood. In this area, there are fifty foot lots,

as demonstrated by other houses in the area, a house can be built that will fit in with the other houses.

Todd Malkin questioned whether the Board would be encouraging smaller lots in the area. Mr. Dinicia replied that he doesn't think so since larger lots create larger houses. He also testified that it is better to have two houses totally up to date than one home sitting awkwardly on the lot in fairly bad shape.

Vice Chairman Peter Kortright III, opened the matter to the public.

Ethan Koplochak commented that there are many larger lots in the area and he didn't understand how one additional house would make such a difference in this area. He questioned whether it would be better to create a new development. Mr. Dinicia replied that it is difficult to find open areas in urbanized towns.

Alexander Koplachak asked how this home would affect the price of his house. Chairman Barry Winston stated that the Board cannot think in dollar signs. Mr. Dinicia replied that by providing two new houses that are up to date, it improves the area and tends to stabilize the neighborhood.

The applicant was reminded that the old house is still depicted on the plan. Mr. Levine indicated that the plan could be revised to show a separate dwelling.

Mr. Rahuba was reminded he was sworn in. He explained that the property has been in the family as his grandfather bought it in 1939. He built the house on two lots in 1941. He bought the other lots later as he had two sons. The existing house is a small Cape Cod. Mr. Rahuba stated he plans to build a new house on the subdivided lot. He stated it was not his intention to do both houses simultaneously because he lives in one. With regard to the property that is 100 X 100, there is a two family home on that property. He stated that if he sells the property as is, he believes a McMansion will be built on the property.

Chairman Barry Winston stated that the Board has been asked to take a lot of things on faith and it is difficult to make a decision without proper plans. Mr. Rahuba stated he has a rendering of the type of one family dwelling he is proposing.

Harvey Rubinstein asked if the applicant would accept the condition that the house be no higher than thirty feet to the peak. Matthew Fox stated that without scaling the plan, he was uncomfortable with that.

Larry Metzger asked about where he would live when building the new house. Mr. Rahuba replied he would sell the new house and rent an apartment in the interim.

Ira Levine stated that the applicant will supply additional revised documentation.

Matthew Fox added that he will prepare a revised site plan showing mirror dwellings on the subdivided lots.

The parties agreed to carry the matter to the July meeting without further notice extending the time limits within which the Board has to act.

Upon motion by Todd Malkin and a second by Chairman Barry Winston, the meeting was unanimously adjourned at 10:30 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Land Use Administrator/
Secretary of the Planning Board

CH:blcl