

## REGULAR MEETING OF MARCH 13, 2006

The regular meeting Fair Lawn Planning Board of Monday, March 13, 2006, was called to order at 7:30 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 Owen McCarthy, Barry Winston, Todd Malkin, Joseph D'Arco, Peter Kortright, III, Michael Cohen, Alan Neggia, Albert Palmieri, Harvey Rubinstein, Phil Cassidy Absent: Michael Cohen, Honey Morgenstern

Also present: Board Engineer John Rottenbucher, Board Attorney Douglas Bern and Board Secretary Cathryn Hochkeppel

### **Approval of escrow bills**

Upon motion by Joseph D'Arco and a second by Phil Cassidy, the escrow bills were unanimously approved.

### **Approval of minutes**

Upon motion by Al Palmieri and a second by Todd Malkin, the minutes of the regular meeting of February 27, 2006 were unanimously approved.

### **Memorializing Resolutions**

#### ***Trackside Grille; 14-22 Plaza Road; Block 5726, Lots 2, 3, 5 and 5.01; food handler***

Attorney Douglas Bern briefly explained the memorializing resolution. Upon motion by Todd Malkin and a second by Al Palmieri, the memorializing resolution was unanimously adopted. AYES: McCarthy, Malkin, D'Arco, Kortright, Rubinstein, Neggia, Palmieri, Winston

#### ***Dell Landscaping; 4-31 Wagaraw Road; Block 6806, Lot 15-17; site plan***

Attorney Douglas Bern briefly explained the memorializing resolution. Upon motion by Deputy Mayor McCarthy and a second by Todd Malkin, the memorializing resolution was unanimously adopted. AYES: McCarthy, Malkin, D'Arco, Kortright, Rubinstein, Neggia, Palmieri, Winston

***Quiznos; 14-25 Plaza Road; Block 3722, Lot 1; food hander***

Attorney Douglas Bern briefly explained the memorializing resolution. Upon motion by Todd Malkin and a second by Deputy Mayor McCarthy, the memorializing resolution was unanimously adopted. AYES: Malkin, D'Arco, Rubinstein, Kortright, Neggia, Palmieri, McCarthy, Winston

***Vera's Trattoria; 12-76 River Road; Block 5613, Lot 1; food handler***

Attorney Douglas Bern briefly explained the memorializing resolution. Upon motion by Al Palmieri and a second by Todd Malkin, the memorializing resolution was unanimously adopted. AYES: Malkin, D'Arco, Rubinstein, Kortright, Neggia, Palmieri, McCarthy, Winston

***IHOP; 37-13 Broadway; Block 2321, Lot 3; sign variance***

Attorney Douglas Bern briefly explained the memorializing resolution. Upon motion by Todd Malkin and a second by Deputy Mayor McCarthy, the memorializing resolution was unanimously adopted. AYES: Malkin, D'Arco, Rubinstein, Kortright, Neggia, Palmieri, McCarthy, Winston

**General public comment**

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

**Rio Vista Estates; 41-41 Dunkerhook Road; Block 1702; Lots 4 and 10; major site plan**

Chairman Winston stated that he was disappointed that more of the suggestions made by this Board weren't incorporated into the revised plan. The only change appears to be movement of the sewer line. Chairman Winston also pointed out that no response was received to Boswell Engineering's letter. Mr. Levine explained that Matt Fox was available to testify and respond to the technical remarks. Mr. Levine also stated he did not expect to finish in one meeting and additional documentation will be forthcoming. Chairman Winston asked about a planner and Mr. Levine replied that there was not a use variance here. Peter Kortright commented that he would like to see the information in advance of the meeting. Mr. Levine also explained that with regard to stormwater management, that submission can be made at a later date subject to the Board Engineer's approval.

Matthew Fox of Canger Engineering, 6-20 Plaza Road, Fair Lawn, was sworn in and qualified as an expert engineer. He went through the history of the application and the prior revisions made. The site plan was marked as Exhibit A-

1. It was noted that the applicant is seeking variances for minimum lot area, rear yard setback, building coverage, impervious coverage, minimum buffer, and distance between the townhouse buildings and adjoining land. Mr. Fox also testified that several design waivers were being sought. Mr. Fox reviewed the plans in detail with the board. Chairman Winston commented that there did not appear to be any changes. Peter Kortright stated that Board members had suggested reducing the number of parking spaces which would also reduce the impervious coverage. Board members were also concerned about access of emergency vehicles. Peter Kortright stated that it didn't appear any of the suggestions given at the special meeting were taken into account. Mr. Levine replied that the Board may have made several suggestions but that doesn't necessarily mean the applicant will incorporate a "wish list". Deputy Mayor McCarthy asked specifically what suggestions made by Board members were incorporated. Mr. Levine noted that the sewer line was moved and a water main loop was added. Additional changes can be made to the plan.

Mr. Rubinstein suggested that the buildings be moved to comply with the 35 foot buffering requirement which might require the elimination of one or two units. Harvey Rubinstein added that the curb radius should be 25° and they are all 15°. Mr. Levine explained that the curb returns were approved by County Planning Board. Peter Kortright added that there is concern about the parking as pointed out by Boswell Engineering and a safer situation can be created by eliminating some of the parking. Harvey Rubinstein asked about the lighting specifically with regard to space number 10. Mr. Fox explained that he intended to move that light. Mr. Rubinstein added that there doesn't seem to be any coverage at the exit. Mr. Fox explained that area was outside of their property and within the county right of way. In response to the Board's question, Mr. Fox testified that by eliminating spaces, the impervious coverage will be reduced by approximately 2%. The front yard setback is an existing condition of the Naugle house. Mr. Fox testified that the corner of Unit 17 is 22.7 feet from Dunkerhook Road rather than 25 feet. The distance becomes 25 feet within a few feet. Mr. Fox further testified that the rear yard setback is 15 feet where 20 feet is required. Mr. Malkin commented that by reducing the size or number of units, the rear yard setback could be met. Mr. Levine pointed out that the density is within Borough guidelines. Peter Kortright stated that although the density might be within the guidelines, there are many variances and waivers that are being requested that could be eliminated by reducing the number of units. Mr. Levine stated that it is a unique parcel because of its particular shape, location and flood plain. Peter Kortright replied that it appeared that the design was driven by fitting the maximum number of units rather than compliance with the Borough's Code. Mr. Fox testified that reducing the number of units is not necessarily the best way to solve a variance situation. The average square footage of the footprint of the building is approximately 885 square feet which is 1500 square feet living area. All the units are the same size. Harvey Rubinstein asked about the steps up or down from the garage. Mr. Fox explained that the architect is going to have to design a platform within the building to

accommodate the slope. Mr. Fox also testified that in order to preserve the Naugle House, variances are required.

Mr. Fox stated that there was some comment by Boswell Engineering relative to roots getting into the sewer line. Mr. Fox stated he would either revise the species or would remove those plantings above the line. Chairman Winston commented that it will create even less of a buffer if plantings or trees are removed from that area. Harvey Rubinstein asked about the type of trees. Mr. Fox stated he would work with Scott Levy. Mr. Fox explained that there is also a requirement that the buildings be 20 feet apart where 16 feet is being provided due to trying to meet the 25 foot setback requirement. Mr. Fox further testified that there is a 35 feet buffer requirement from the residential property line. He explained that the proposed plan provides for 15 feet. The adjoining residence is set 17 feet off the property line so there is actually 32 feet between the buildings. The other variance requested is for units 16 and 17 since they are two attached units rather than the required three.

Harvey Rubinstein questioned the access for emergency vehicles and asked how a fire truck would get behind the units due to the trees planned behind the units. Mr. Fox replied that the fire truck would not fight a fire from that location. Joseph D'Arco stated he would like to see a report from the Fire Prevention Bureau. Deputy Mayor McCarthy raised the issue regarding liability for garbage pickup and snow plowing. Although the street is substandard, there may be some legal ramifications which would obligate the Borough and he believes that it is important that this be further investigated. He also expressed concern about the Borough's ability to pick up garbage and did not believe that the applicant had demonstrated a proper way it could be done on the narrow roadway. There was also discussion relative to the sewer line. It was noted that both the Borough Engineer and the DPW Superintendent recommended that the line not be placed under driveways and sidewalks. Mr. Levine replied that the Association would maintain the line up to Dunkerhook Road. John Rottenbacher noted that the width of the street is narrow and it is indicated that there would be no parking on the street. No Parking signs will need to be posted. Peter Kortright cited that many of these obligations and requirements would be cited in developer's agreement and if a development is approved, he wants to be sure that the obligations of the applicant and association are perfectly clear. It was pointed out that there are other developments in the Borough with private drives such as Maltese and Parkview. Peter Kortright stated that those developments were approved many years ago without the current standards.

Mr. Fox explained the sewer line in detail. He stated that the utilities are in the right-of-way and not under sidewalks. Mr. Rottenbacher commented that in order to construct any sewer, the applicant will need to demonstrate that there is adequate capacity downstream. Mr. Fox stated that the applicant is proposing to tie into Landzettel Way. Mr. Fox stated that he is confident they can meet all of the RSIS requirements including reduction of stormwater by 20%.

Louis DiGeronomo, 16 Beekman Place, registered architect, and licensed planner explained that there are additional concerns with regard to the historic importance of the site. In addition to preservation of the building, the identification of artifacts in the area is important. Exploratory work should be done prior to any major excavation. There are educational institutions that do this as a normal course of their academic process. Drew University and Rutgers performs this service. If there are any artifacts, additional work is done. The length of time would vary based upon the complexity of the site. It would be restricted to the immediate grounds of the building unless an underground chamber or some other large find was made. Peter Kortright explained that it would cause the DEP to get involved identifying the extent and the value of the artifact. If some evidence of artifacts is found, more extensive review is needed. Mr. DiGeronomi explained that an exploratory dig is conducted and if nothing is found, they move on.

Harvey Rubinstein stated he was concerned about the Transco line behind units 13-15. Mr. Fox replied that the pipelines are normally 8 to 10 feet deep.

Chairman Winston opened the matter to the public.

Lamont Haggerty stated he lived in the Naugle House and explained some of the history. He stated he is concerned about the restoration and the condition of the building. He also added that he has done a lot of digging in the area. Chairman Winston stated that the Board itself will not be involved in the restoration process as the applicant will only be bringing the house up to code but he encouraged Mr. Haggerty to get involved with the historic commission and the restoration of the house.

Howard Mark, 12-33 Ferry Heights, Fair Lawn, stated that the planks covering the windows were missing. He is also concerned about the water well being safely covered.

Suzanne DiGeronimo, 16 Beekman Place, suggested that the public may want to hire its own consultant and that there should be a vehicle for doing so. Peter Kortright explained that the Board is having a planner prepare a report and it also has its engineer to look at the technical side of the applications.

Greg Miller, 5 Ramapo Terrace stated he is concerned about the narrow roadway. He commented that there is no curvature at the end of the roads to provide for turn arounds for larger vehicles such as SUVs. Mr. Fox replied that 24 feet wide is adequate for two way traffic and a turn-around is not practicle for a driveway that is 75 or 100 feet long.

Arlene Rubinstein, 28 Rutgers Terrace, stated she is concerned about overflow parking into the County lot. Mr. Levine stated that the Board has asked the applicant to reduce the number of parking spaces. Ms. Rubinstein stated she wouldn't want this development to interfere with the parking on the County lot. There are people who use that park every day and the lot is full on weekends.

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

### **Adjournment**

Upon motion by Peter Kortright and a second by Todd Malkin, the meeting was unanimously adjourned at 10 p.m.

Respectfully submitted,

Cathryn Hochkeppel  
Land Use Administration

