

REGULAR MEETING OF DECEMBER 11, 2006

The regular meeting of the Fair Lawn Planning Board of Monday, December 11, 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: Chairman Barry Winston; Todd Malkin, Deputy Mayor Joseph Tedeschi, Alan Neggia, Peter Kortright, III, Michael Cohen, Joseph D'Arco, Phil Cassidy, Harvey Rubinstein, Honey Morgenstern Absent: Albert Palmieri Also present: Engineer John Rottenbucher, Board Attorney Douglas Bern, Board Secretary Cathryn Hochkeppel,.

Approval of Escrow Bills

Upon motion by Todd Malkin and a second by Michael Cohen, the escrow bills were unanimously approved.

Approval of Minutes

Upon motion by Todd Malkin and a second by Joseph D'Arco, the work session minutes of October 23, 2006, were unanimously approved. AYES: Joseph D'Arco, Michael Cohen, Todd Malkin, Alan Neggia, Peter Kortright III, Phil Cassidy, Barry Winston, Harvey Rubinstein ABSTAIN: Joseph Tedeschi.

Upon motion by al Palmieri and a second by Todd Malkin, the minutes of the November 13, 2006, meeting were unanimously approved. AYES: Joseph D'Arco, Michael Cohen, Alan Neggia, Peter Kortright, III, Phill Cassidy, Harvey Rubinstein, Barry Winston, Joseph Tedeschi ABSTAIN: Todd Malkin

General Public Comment

Steve Brown asked about procedures and was told that he can raise questions at the hearing. Chairman Barry Winston added that this should not be an adversarial situation. It was the Board's goal to achieve the best application for everyone.

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

Osman Cakir, 146 Bogert Road, River Edge, was sworn in. He explained he took over a pizzeria on Broadway. He attested to the application as written.

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

Peter Kortright, III, moved that the application for change of ownership be approved noting the only change was the name itself. Todd Malkin seconded the motion which was unanimously approved. AYES: Joseph D'Arco, Michael Cohen, Alan Neggia, Deputy Mayor Joseph Tedeschi, Peter Kortright, III, Todd Malkin, Harvey Rubinstein, Phil Cassidy, Chairman Barry Winston.

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

Gary Michael Cohen, 11-16 Harrison Drive, Fair Lawn was sworn in. He explained that they were purchasing the New Wave Café and are turning it into a full bagel and deli store. No seating will be added. They are replacing the pizza oven with a bagel oven. He testified that there are currently 40 seats. Mr. Cohen added that he has deliveries from a flour company between 10:00 a.m. and 2:00 p.m. The trucks are all straight jobs. There are no tractor-trailer deliveries.

The testimony was that there will be six employees. Hours of operation are 6:00 a.m. to 9:00 p.m., Monday through Saturday and 6:00 a.m. to 3:00 p.m. on Sunday. In response to Deputy Mayor Joseph Tedeschi's question, Gary Cohen stated that the garbage is picked up by 8 a.m. He further testified that there will be no rotisserie.

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. Michael Cohen seconded the motion which was unanimously approved. AYES: Joseph D'Arco, Alan Neggia, Deputy Mayor Joseph Tedeschi, Peter Kortright, III, Todd Malkin, Michael Cohen Harvey Rubinstein, Phil Cassidy, Chairman Barry Winston.

MBIF, 22-10 Broadway; Block 3329, Lots 8-9; site plan

John J. Lamb, Esq., appeared on behalf of MBIF. He explained that the applicant proposes to convert the existing law office to a Dunkin Donuts. The applicant already operates a facility on Route 4 at 32-02 Broadway since 1982 and has permission to open up another site. There is compliant parking for 14 seats. There will be a maximum of five employees. Mr. Lamb explained that the peak hours are from 7:00 a.m. to 11 a.m. After noon, there are only two employees. Mr. Lamb also explained the delivery schedule.

Mr. Lamb explained that this is a family operation. Chairman Barry Winston asked if there would be a contact person from the family in the event there are any problems. Mr. Lamb stated the family operates a number of Dunkin Donuts

in Bergen County and they will make sure the appropriate officials have the information.

Mitch Baker, 5-03 Old Post Road, Wyckoff, New Jersey was sworn in. Peter Kortright, III, asked about the traffic circulation and suggested that directional arrows be painted. Mr. Lamb passed out Exhibit A-1 depicting where the dumpster would be located. There was also an alternative two showing a different dumpster location marked as Exhibit A-2. There was discussion regarding different locations for the dumpster. Harvey Rubinstein suggested that it be moved to the parking space seven area. Mr. Lamb pointed out that it would cause a parking variance situation. Harvey Rubinstein stated that he believes the proposed location is troublesome and could block an access. Joseph D'Arco suggested another area for the dumpster.

Gary Newman, 31 Rose Avenue; Woodcliff Lake, New Jersey, owner of the property, was sworn in. He explained some of the restrictions of the site including the retaining wall. Garbage is picked up three times a week and it takes three to four minutes. It was agreed that garbage would be picked up between noon and 5:00 p.m.

Mr. Lamb explained that they are not changing the footprint of the building. Chairman Barry Winston opened the matter to the public.

Andrew Palistini, 1-14 Banta Place, stated that his main concerns include the hours of operation and the type of additional lighting. He was also concerned about the dumpster smells and security at a 24 hour operation near Paterson.

Chairman Barry Winston stated that the location of the dumpster appears to be an issue.

Mr. Baker explained that he has been in business for 20 years and has only had a problem once. They have good shift leaders. He added that this is a simple parking design. With regard to the lighting, John Lamb stated it will be downshield lighting that does not spill onto the neighbor's property. Peter Kortright, III, commented that he is uncomfortable in that all the details are not being presented and the engineer is not here to answer questions.

It was agreed that the matter would be carried to the January 8, 2007, meeting at 7:30 p.m. without further notice and the applicant agreed to extend the time within which the Board has to act. Engineer John Rottenbucher suggested that the sign detail be given. Discussion ensued regarding the off-site parking situation. John Lamb stated that parking on Banta by the business could be prohibited if the council so chose.

John Prodonostro, 1-09 Banta Place, stated he doesn't understand why this is a business use since it is in a residential area. Peter Kortright, III, pointed out that the property lies on a State Highway and is not suitable for residential.

Louis Carlini, 1-25 Banta Place, resident of Fair Lawn 39 years, stated that this building seems to be smaller than the building on 32nd Street, but more seats are being proposed. He added that he is concerned about the parking situation and about the demographics in the area as there are Ziploc bags all over the place by the train station.

Mark Wyka, 1-13 Banta Place, stated that juveniles do hang out in the 24-hour business parking lots. He also pointed out that the business faces Banta and the one on Broadway does not face the residences but the highway.

Randolph Bords, 1-21 Banta Place, asked about the ingress and egress and was told traffic from Broadway exits onto Banta Place. He also stated that he does not want a dumpster where everyone can see it. He would prefer that it not have an exit onto Banta Place.

Harvey Rubinstein asked if the apron on Broadway could be increased and was told that in all likelihood it would not be approved by the state.

It was noted that Banta Place is in the B-2 zone. A large portion is industrial with some residential. Honey Morgenstern commented on hours of operation and wondered if the applicant would be willing to change the hours. Mr. Baker explained that his type of franchising requires a 24-hour operation. John Lamb, Esq., explained that the applicant runs a safe operation, has appropriate controls, and will not have people hanging out for extended periods of time. They would not allow that to happen.

It was announced that the matter would be continued to January 8, 2007.

Chairman Barry Winston recessed the meeting at 9:00 p.m. for five minutes. The meeting reconvened at 9:10 p.m. with all members present as previously indicated with the exception of Honey Morgenstern who left the meeting.

VILLAGE JUNCTION; 177 Harristown Road; Block 6906, Lot 1-2, 76-82

Colin Quinn, counsel for the applicant, appeared on behalf of the applicant. He explained that he was presenting two witnesses.

Mary Fitzpatrick Scro, 634 Franklin Turnpike, Allendale, New Jersey, was sworn in and qualified as an expert architect. A reduced rendering of the full set of plans revised to September 28, 2006, was marked as Exhibit A-1. A set of architectural plans from C Plus Architects dated November 27, 2006, was

marked as Exhibit A-2. It reflected the most current version of the proposed buildings. Mr. Quinn noted seven units are proposed rather than nine.

Ms. Scro explained the architectural plans in detail. The units include three one-bedroom units; two two-bedroom units and two three-bedroom units. The first units will have garages. She explained that the rooflines are varied more in keeping with the residential area. Ms. Scro testified that this is a great improvement to the site and a great entry point into Fair Lawn. The seventh unit's height of the building is lower to lessen any impact on that neighbor. The proposed application complies with the ordinance. Ms. Scro testified that the units will be high quality and a substantial improvement over what presently exists.

Todd Malkin asked about the entrances since one seemed to be missing. Ms. Scro explained that one door served the two upper units. Harvey Rubinstein questioned the configuration of the cellar and the need for a full bath in the basement. Ms. Scro explained that the Borough's Code defines it as a cellar. It can be used for storage or gym equipment. A bedroom cannot be put into the cellar because the windows make it inhabitable.

Alan Neggia asked about the concerns of the fire department and was told that the turning radius fits. Chairman Barry Winston opened the matter to the public.

Elaine Close, 34 Heights Avenue stated she was concerned about the driveway and was told that the question was better suited to the engineer.

Greg Sedlak, 14 Heights Avenue, asked about the one unit closest to the residences and was told it was well within the height requirements.

Mr. William Page of Page Consultants, 6 Forest Avenue, Paramus, New Jersey, was sworn in and qualified as an expert engineer and planner. The résumé of William Page was marked as Exhibit A-3. Mr. Page gave a general description of the site plan. He explained the existing conditions and the contours of the property. He testified that there is an existing nonconformity with regard to lot depth. The existing building is set back 20 feet and the new building will be brought into conformity with a front yard set back of 48.5 feet. The applicant is seeking a variance for impervious coverage. Mr. Page also explained the traffic circulation. The entrance is from Lincoln Avenue and the exit is on Heights Avenue.

Mr. Page explained the landscaping in detail. The applicant is proposing pine trees as a buffer along the whole side of the building on the south side. The first trees will be eight to ten feet and be planted on top of a three-foot berm so they will be substantial. Mr. Page further testified that the existing trees on Heights Avenue will remain, adding Junipers and shrubs and more pine trees along Heights Avenue. He testified that it will be more aesthetically pleasing than

presently exists. The retaining wall will be eight to nine feet and is at the curvature at Lincoln Avenue and Harristown Road tapering down to two-feet. The parking plan was explained in detail. Mr. Page pointed out that 19 spaces are being provided wherein 14 spaces are required. There are five extra spaces for visitors. He explained that he applied a turning template for a fire truck. The garbage truck can come in from Lincoln and circulate to the garbage area. He explained the drainage plans and seepage pits in detail. The drainage report was marked as Exhibit A-4. Mr. Page explained the lighting in detail that conforms to the municipal ordinance. All perimeter lights are to be shielded to prevent any spillage onto adjacent properties. The lights will go off at 9:00 p.m. and turn on at dusk. The garbage storage is northwest of the building itself. Mr. Page testified that the design fits the positive criteria of a C(1) variance and that the project proposed fits the zoning ordinance. He testified it would be very difficult to put any other development in this spot. Mr. Page testified that in accordance with the NJIT trip generation rates there will be only nine additional trips during the evening peak times. The building at the site now is in great need of repair. It is a positive feature that this development is trying to blend into the residential neighborhood. Mr. Page testified that this is an aesthetically pleasing project. Mr. Page testified that the development conforms with all the land use requirements other than the existing depth and the impervious coverage. With regard to the impervious coverage, the area is being sufficiently buffered and there will be no runoff.

Peter Kortright asked about the slope easement with DOT. Mr. Page replied that the applicant will submit a parcel map to DOT and will go through the proper protocol. Mr. Kortright also asked why there were wheel stops on some spaces and not on others. Mr. Page replied that if the Board wants wheel stops on all spaces, they will provide them.

Alan Neggia pointed out that Fire Prevention has suggested placing a fire hydrant at the site. Joseph D'Arco asked about snow removal. Mr. Page stated it would probably be temporally stored in the visitor parking. Harvey Rubinstein suggested a change in the garbage pickup area. Mr. Page replied that he will look at putting it closer to the building. Harvey Rubinstein also noted that the exit is seven feet from the existing house. Mr. Page replied that it was placed as far away from the intersection as possible. There is a buffer for noise from the residential property. Mr. Page testified that no water will be running onto other properties.

John Rottenbacher asked the engineer to review the angled parking space on the north side of the building as it does not appear that it is a full 18 feet in length. He wanted to be sure it doesn't interfere with the access road. The other item is the fire hydrant suggested by the fire code official.

John Rottenbacher added that he will also require calculations on the retaining wall stability. Peter Kortright commented that he does not think the exit should be any closer to the intersection.

Chairman Winston opened the matter to the public.

Steve Brown commented that the applicant has stated they reduced from nine-units to seven-units when the initial proposals was actually seven. Mr. Brown asked why the neighbors should believe it won't cause flooding. Mr. Page stated that not only is it designed not to have any run off but their design is being approved by the Board's Engineer who is known for his expertise. Mr. Brown also questioned whether there was sufficient parking. Mr. Page explained there are five excess spots above and beyond what is required by the ordinance.

Mr. Brown also asked how the trip generation rates are calculated and Mr. Page explained the engineering standards. This development actually eliminates traffic based upon these standards.

Chairman Winston announced that the matter would be carried to the meeting of January 8, 2007. It was agreed among the parties that the time constraints would be waived and no further notice would be required.

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

Stuart Liebman appeared on behalf of the applicant. The property is used for an Adult Day Care establishment and a spa. He explained that the use is not changing. The application is to improve the aesthetics and to shift the dumpster about 20 feet. They are proposing brick pavers around the entire site with greenery between. The impervious coverage is being decreased. Technical variances are required with regard to the logos on awnings as well as the signs on the side of the building and sign on the back in the parking lot that are being added. The applicant has agreed that the new illuminated signs will be turned off at 9:00 p.m. and the other at 10 p.m. Mr. Liebman explained that Broadway is the subject of downtown redevelopment and this application is consistent with that redevelopment. The change is an improvement to the look of the building.

Joseph Donato, was sworn in and qualified as an expert architect. He explained the elevations. A series of six photographs and renderings handed out to each Board member was marked as Exhibit A-1.

He explained the existing building and stated that it is unique as to location. It is a masonry brick building that goes unnoticed. The main concept of the new design is to soften up the building. A colored rendering of the front of the building was marked as Exhibit A-2. Mr. Donato explained the design in detail including the mood lighting. The corner is presently round and he has taken that shape and added a copper dome. Mr. Donato added that the rear will be changed to

indicate the two different uses. He explained the proposed sign in detail as well as the awning logos. On Plaza Road the "Broadway" sign will be turned off at 9:00 p.m. Mr. Donato testified that the total new sign is only slightly increasing. The other illuminated sign for the sauna will be turned off at 10:00 p.m. Mr. Donato testified that he believed that this will be a significant improvement to the area. The overall concept is not a detriment. He suggested that the applicant consider taking out the bollards and plant some trees. Mr. Donato replied that he will review that area to see if they can add the plantings and further soften the Broadway image. He added that he will work with the Board's Engineer.

Joseph Tedeschi added that intersection has a need for safety and removing bollards needs to be carefully considered. The appearance of that area needs to be improved and this plan appears to do so.

Sandy Simon, of Mahwah, property owner of 24-08 Ellington Road, commented that he is in favor of the project. He asked that vehicles not park on his lot and that the applicant police the property for litter. Mr. Liebman stated during construction they will do their best to not interfere with the neighbor's building. As far as garbage, that will be exclusively on the applicant's property.

Elizabeth T. Young, 0-90 Plaza Road, stated that when they moved in there were only 12 buses and now there are 36 buses. Mr. Liebman replied that there are 14 buses in the fleet and two minivans. There are 14 drivers. There is striping on the plan to accommodate the buses. The middle area was striped to keep the buses away from residents.

Howard Lowenstein, 0-93 Plaza Road, confirmed that the applicant agreed that the lighting would go off at 9:00 p.m. on Plaza Road and 10:00 p.m. in the rear.

Calistro Bertin, 66 Glen Avenue, Glen Rock, was sworn in and qualified as an expert engineer. He testified he prepared the site plan and explained it in detail. The intention is to replace all the sidewalks and put in brick pavers. A colorized rendering of the site plan was marked as Exhibit A-3. The impervious coverage is being reduced from 96.5% to 95.1%. The dumpster will still be enclosed. Peter Kortright asked about the landscaping plan and it was explained that the front was lawn. Peter Kortright suggested that they discuss the type of pavers with the E.D.C.

Chairman Winston asked if anyone from the public had questions for the witness and no one came forward.

John Rottenbucher asked about the light that spills on to a Plaza Road residence. The engineer indicated that the applicant will meet with the neighbors and either shift the light down or add a shield.

Harvey Rubinstein left the meeting at 11:15 p.m.

Chairman Winston opened the matter to the public for general comment.

Elizabeth Young, 0-90 Plaza Road, stated that she has called Borough Hall about the garbage outside of the fence. She stated there is a great deal of litter. Mr. Liebman replied that the applicant is upgrading the site and it is in its best interest to maintain the property. Chairman Winston explained the functions of the Property Maintenance Committee.

Todd Malkin moved that the application be approved subject to turning off the Plaza Road sign at 9:00 p.m. and the Sauna and Spa sign at 10:00 p.m. The revised dumpster location to be enclosed, the variances for awnings, signs, and height of signs, be granted, the lighting issues with regard to the residential neighbors be addressed and that the applicant review the feasibility of removing the bollards and replacing them with trees. Michael Cohen seconded the motion which was unanimously approved. AYES: Joseph D'Arco, Alan Neggia, Peter Kortright, III, Joseph Tedeschi, Todd Malkin, Phil Cassidy, Michael Cohen, Barry Winston.

Adjournment

Upon motion by Alan Neggia and a second by Joseph Tedeschi, the meeting was unanimously adjourned at 11:35 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Secretary of the Board

CH:blcl