

**MAYWOOD PLANNING BOARD
MINUTES
January 23, 2020**

A regular meeting of the Maywood Planning Board was held on Thursday, January 23, 2020 in the Council Chambers of the John A. Steuert, Jr. Municipal Complex, 15 Park Avenue, Maywood, New Jersey at 7:30pm. “This meeting was called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was published in the Our Town and The Record newspapers on or about November 21, 2019. In addition, copies of this notice were posted on the bulletin board in the Maywood Municipal Building at 15 Park Avenue, filed with the Borough Clerk and distributed to all persons, if any, requesting copies of the same pursuant to said act. This meeting is a judicial proceeding, any questions or comments must be limited to the issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.”

Flag Salute

Call to Order

The meeting was called to order at 7:30pm with the following members present: Chairman Frank Lichtenberger, Vice Chairperson Charlotte Panny, Mayor’s Designee Douglas Herrick, Councilperson Ryan Ullman, Gary Neumann, John Montel, Harry Hillenius, Rick DeHeer, Peter Cicarelli, Secretary Anthony Klymenko and John Gargagliano. Board Attorney Kara Kaczynski and Board Planner Michael Kauker were also present.

Oaths of Office

Mayor’s Designee Douglas Herrick – Class I

Gary Neumann – Class II

Councilperson Ryan Ullman – Class III

Peter Cicarelli – Alternate #1

Board Attorney Kara Kaczynski administered the Oath of Office.

Reorganization of the Board

Elections

Harry Hillenius nominated Frank Lichtenberger as Chairman of the Board and John Gargagliano seconded the nomination. Harry Hillenius nominated Charlotte Panny as Vice Chairperson of the Board and John Gargagliano seconded the nomination. Harry Hillenius nominated Anthony Klymenko as Secretary of the Board and John Gargagliano seconded the nomination. All eligible members present voted in favor of the motions.

Professional Appointments

Vice Chairperson Charlotte Panny made a motion to appoint Kara Kaczynski (McNally, Yaros, Kaczynski & Lime, LLC) as 2020 Legal Counsel to the Board and John Gargagliano seconded the motion. All eligible members present voted in favor of the motions.

Chairman Frank Lichtenberger made a motion to appoint Richard Wostbrock (Alaimo Group) as Temporary Professional Engineer to the Board and Harry Hillenius seconded the motion. All eligible members present voted in favor of the motions.

Rick DeHeer made a motion to appoint Michael Kauker (Kauker & Kauker, LLC) as 2020 Professional Planner to the Board and Gary Neumann seconded the motion. All eligible members present voted in favor of the motions.

John Gargagliano made a motion to appoint Tara Grunstra as 2020 Recording Secretary to the Board and John Montel seconded the motion. All eligible members present voted in favor of the motions.

Re-adoption of By-Laws Adopted 1/22/15

Harry Hillenius made a motion to re-adopt the by-laws adopted 1/22/15 and Vice Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motions.

Re-adoption of Rules on Citizen Input During Planning Board Meetings Adopted 8/23/18

Rick DeHeer made a motion to re-adopt the Rules on Citizen Input During Planning Board Meetings adopted 8/23/18 and Gary Neumann seconded the motion. All eligible members present voted in favor of the motions.

Approval of Minutes

John Gargagliano made a motion to accept the minutes from the December 5, 2019 meeting. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Bills

Harry Hillenius made a motion to accept payment of the bills. Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

- 12/23/19 filed answer from Board Attorney Kara Kaczynski for Ultimate Force and Arpad Kertesz v. Zoning Board of the Borough of Maywood, 200 Route 17, LLC, John and Jane Does 1-10 and ABC Corps. 1-10 (Docket #: BER-L-006522-19)
- 12/23/19 letter from Patrick McNamara Re: Requesting Extension of Interim Immunity Related to Housing Element and Fair Share Plan
- 12/24/19 filed answer and separate defenses from Victor Herlinsky, counsel for 200 Route 17, LLC, for Ultimate Force and Arpad Kertesz v. Zoning Board of the Borough of Maywood and 200 Route 17, LLC (Docket #: BER-L-006522-19)
- 1/6/20 letter from Joseph Basralian Re: Adler Aphasia Center Response to Completeness Review
- 1/10/20 letter from Board Engineer Richard Wostbrock Re: Adler Aphasia Center Updated Completeness Review
- 1/14/20 letter from Board Engineer Richard Wostbrock Re: NYCE Tattoos Completeness Review
- 1/15/20 letter from Chief Joseph Natale Re: NYCE Tattoos Maywood Police Department Suggestions and Concerns
- 1/16/20 letter from Board Recording Secretary Tara Grunstra Re: The Little Locust Sign Application Hearing Date 1/23/20

Board Attorney Kaczynski explained that the hearing is adjourned to the 2/6/20 meeting without need for additional notice.

Hearing #3

Master Plan Reexamination

Board Planner Michael Kauker reminded the Board that the Master Plan Reexamination began in January 19, 2016 but was held in abeyance while the Master Plan Housing Element and Fair Share Plan (HEFSP) was settled. Once the HEFSP was finalized, Board Planner Kauker was able to complete the Master Plan Reexamination Report on September 26, 2019. He thanked the Board for their input, particularly Vice Chairperson Charlotte Panny. The report reflects Board comments given at various work sessions. He identified 3 changes that need to be made:

1. Acknowledgements Page, update the Board membership list
2. Page 6 Bullet 6, replace “Bergen Mall” with “Bergen Town Center”
3. Page 26 Bullet 4, add at the end of the bullet “Required Parking Compliance: Second floor apartments proposed and constructed pursuant to this recommendation shall comply with the Residential Site Improvements Standards (RSIS) that were guided by parking requirements. Such parking shall be located on-site or, in the alternative, off-site within a reasonable distance of the subject property.”

This statement references off-site parking as an alternative to on-site parking because the Borough has a parking space rental program at various Borough owned parking facilities. The statement was recommended by Zoning Officer James Mazzer to provide a foundation for the zoning modification to accommodate the parking demand created by additional development. Board Planner Kauker will make those changes and provide a final document for the Board to vote on at the next meeting on 2/6/20.

Chairman Lichtenberger clarified that the zoning change allowing the expansion of the RC district into interior residentially zoned lots is limited to the area west of Palmer Avenue and only affects approximately 2 properties. He noted that adding a second story to the properties on West Pleasant Avenue has parking implications and parking is a difficult issue in Maywood and many other municipalities in this area. The Borough has attempted to satisfy the parking demand by providing municipal parking areas. Vice Chairperson Panny confirmed that this public meeting was advertised correctly. Board Attorney Kaczynski suggested an alternative phrasing of the revision #3; “Parking: Due to the ongoing parking problem along West Pleasant Avenue, second floor apartments should be constructed pursuant to RSIS or as otherwise amended by the Borough Land Use ordinance. Such parking shall be located on-site or, in the alternative, off-site within a reasonable distance of the subject property.” Rick DeHeer asked if the West Pleasant Avenue second story structure would be for new construction or could existing structures be allowed to expand. Board Planner Kauker answered that the second story could be added to an existing building if the building is structurally capable. He added that if parking cannot be provided for as part of a development proposal, a variance would be needed.

Chairman Lichtenberger invited the public to comment on the report. Mayor Richard Bolan confirmed with Board Planner Kauker that a variance could provide relief from the parking requirement. Mayor Bolan noted that the zoning approval is a condition of the certificate of occupancy. He used the example that the monthly renting of parking spaces could be a condition of zoning approval. If the parking space rental ceases, the zoning approval and certificate of

occupancy would be voided and the tenancy would be illegal. Board Planner Kauker agreed that there is the potential for that situation. He suggested that the zoning approval could be tied to a deed restriction agreed to by the property owner. Mayor Bolan believes that the Borough would be in a position of rescinding a certificate of occupancy because a condition of the zoning approval is not being met. Mayor Bolan believes there is a movement toward a walking village where people don't need to use their cars as often. He asked if that was considered in the Master Plan Reexamination. Board Planner Kauker agreed that the walking village approach would lower parking demands. He also suggested a shared parking option where one user would use the parking space at night and the other during the day. Mayor Bolan stated that the property owners would not own the parking but would instead be renting the space from the Borough. Board Planner Kauker agreed and added that the RC district does not have parking requirements for first floor use. Mayor Bolan summarized that should a property owner receive zoning approval, there could be a chance that parking could not be secured. Therefore the property owner would not be able to acquire a certificate of occupancy. The risk would be taken by the property owner who would still be required to pay taxes and maintain the property even if they were unable to rent the space. Board Planner Kauker suggested that the Borough owned parking program may want to consider longer rental lease periods like quarterly or annually. Mayor Bolan does not think that a shared parking space is practical. Board Planner Kauker advised that Morristown has a parking authority that provides for long-term parking rental leases. Chairman Lichtenberger want to preserve the overnight parking restriction.

Borough Administrator Roberta Stern explained that the intent of the overlay zones for the Garden Apartments and West Pleasant Avenue was intended for new large-scale development. Maywood Market expanded their parking lot to Passaic Street. A new ordinance is being prepared to define parking in the municipal parking lots including longer term leasing periods. When an application comes before the Board for residential second floor space on West Pleasant Avenue, a deed restriction requiring the applicant to provide for parking would be necessary.

Krupen Dudhia is a business owner at 138 and 140 West Pleasant Avenue. He is aware of an alleyway space behind the commercial properties on his block that he believes can satisfy the parking requirement as an easement. Board Attorney Kaczynski explained that the master plan is not intended to be so specific. The master plan is a recommendation by the Board to the governing body related to what should be considered and changed during land development. The master plan does not outline specifics like parking requirements or setbacks. The governing body will create ordinances with those details while ensuring that the ordinances are consistent with the master plan. Chairman Lichtenberger advised Mr. Dudhia to speak to the Construction Official and Fire Official to get more information about the alleyway he spoke of.

Jackie DeMuro lives at 240 Prospect Avenue. She asked if the Master Plan Reexamination Report will be available online for residents to review. Board Attorney Kaczynski advised that copies of the report are available in the Maywood Planning Board office at 15 Park Avenue and are not posted online. Ms. DeMuro asked if it could be posted in advance of the 2/6/20 public hearing. Board Attorney Kaczynski stated that the public hearing would take place tonight and the 2/6/20 meeting would be a regular noticed public meeting of the Board to vote on the Master Plan Reexamination. Ms. DeMuro suggested posting the Master Plan Reexamination Report to the Borough website prior to the public hearing. She then asked about Albert Street referenced

on page 28 of the report. Chairman Lichtenberger stated that Albert Street was renamed Spencer Joseph Way. Board Planner Kauker agreed to update the street name.

Board Attorney Kaczynski summarized the changes being made to the Master Plan Reexamination Report:

1. Acknowledgements Page, update the Board membership list
2. Page 6 Bullet 6, replace “Bergen Mall” with “Bergen Town Center”
3. Page 26 Bullet 4, add a paragraph related to parking at the end of the bullet which she will email to Board Planner Kauker
4. Page 28, change “Albert Street” to “Spencer Joseph Way”

Vice Chairperson Charlotte Panny asked if maps were included in the report. Board Planner Kauker did have maps but they were inadvertently omitted from the Board copies. He will make sure that they are included in the version that is voted on at the 2/6/20 meeting. Board Attorney repeated the Master Plan Reexamination Report will be carried to the 2/6/20 Board meeting for adoption.

Informal Hearing None

Old Business None

New Business

- Distribution of Calendar #2020-03 Empire Real Estate Holdings, Inc., 191 West Central Avenue, Block 122, Lots 15 & 16.01, Variance & Site Plan Applications

Open Meeting to the Public

Closed Session

Harry Hillenius made a motion to go into Closed Session. Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

**BOROUGH OF MAYWOOD PLANNING BOARD
Closed Session Resolution # 2020-04**

BE IT RESOLVED by the Planning Board of the Borough of Maywood, pursuant to the provisions of the Open Public Meetings Act, that the Maywood Planning Board met in closed session to discuss the following subject matter(s): Pending litigation and personnel matters

which subject matter(s) is (are) permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

() Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law

() Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds

() Sub-section 3 involving disclosure of material that would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved

() Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions and negotiations thereof

() Sub-section 5 dealing with the acquisition of real property, the setting of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest

() Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law

(X) Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege

(X) Sub-section 8 concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof

() Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that the Planning Board of the Borough of Maywood

() Will return to open session after this meeting.

(X) Do not envision that they will return to open session after this meeting but reserves the right to do so.

Date of Passage: 1/23/20 Time: 8:30pm

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary