

**MAYWOOD PLANNING BOARD
MINUTES
January 28, 2021**

A regular meeting of the Maywood Planning Board was held on Thursday, January 28, 2021 via the “Zoom” online meeting platform at 7:30pm. “This Virtual Meeting is called pursuant to the provisions of the Open Public Meetings Act. Both adequate and electronic notice of this virtual meeting has been provided by way of publication in the Our Town and The Record newspapers on or about December 7, 2020. In addition, notice of the meeting was posted on the door of the Maywood Municipal Building located at 15 Park Avenue and any handicapped-accessible entrances thereto; posted on the municipal website; provided to the municipal Clerk and distributed to all persons, if any, requesting copies of same. This meeting is being recorded with both audio and video and may be rebroadcast. 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

Oaths of Office

Gary Neumann – Class II

Paul Kuhn – Class IV

John Gargagliano – Alternate #3

Geoffrey Smith – Alternate #4

Board Attorney Kara Kaczynski administered the Oath of Office.

Call to Order

The meeting was called to order at 7:35pm with the following members present: Chairman Frank Lichtenberger, Vice Chairperson Charlotte Panny, Mayor Richard Bolan (left @ 8:34pm), Councilperson Ryan Ullman (arrived @ 7:50pm and left @ 8:34pm), Gary Neumann, Paul Kuhn, John Montel, Harry Hillenius, John Gargagliano and Geoffrey Smith. Board Attorney Kara Kaczynski, Board Engineer Gregory Polyniak, Board Planner Michael Kauker and Borough Fair Share Housing Counsel Patrick McNamara were also present.

Reorganization of the Board

Elections

Mayor Richard Bolan nominated Frank Lichtenberger as Chairman of the Board and John Gargagliano seconded the nomination. All eligible members present voted in favor of the motion.

Frank Lichtenberger nominated Charlotte Panny as Vice Chairperson of the Board and Paul Kuhn seconded the nomination. All eligible members present voted in favor of the motion.

Frank Lichtenberger nominated Anthony Klymenko as Secretary of the Board and John Gargagliano seconded the nomination. All eligible members present voted in favor of the motion.

Professional Appointments

Mayor Richard Bolan made a motion to appoint Kara A. Kaczynski (McNally, Yaros, Kaczynski & Lime, LLC) as 2021 Legal Counsel to the Board and Chairman Frank Lichtenberger seconded the motion. All eligible members present voted in favor of the motions.

Vice Chairperson Charlotte Panny made a motion to appoint Gregory J. Polyniak (Neglia Engineering Associates) as 2021 Professional Engineer to the Board and Paul Kuhn seconded the motion. All eligible members present voted in favor of the motions.

Paul Kuhn made a motion to appoint Michael Kauker (Kauker & Kauker, LLC) as 2021 Professional Planner to the Board and Chairman Frank Lichtenberger seconded the motion. All eligible members present voted in favor of the motions.

John Gargagliano made a motion to appoint Tara Grunstra as 2021 Recording Secretary to the Board and Vice Chairperson Charlotte Panny 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 Paul Kuhn 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

Harry Hillenius made a motion to re-adopt the Rules on Citizen Input During Planning Board Meetings adopted 8/23/18 and Vice Chairperson Charlotte Panny 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 3, 2020 meeting. Paul Kuhn 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. Vice Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

Councilperson Ryan Ullman arrived at the meeting at 7:50pm.

Correspondence

- 12/4/20 letter from Thomas K. Hynes Re: L.M.G., LLC 945 Spring Valley Road Application Withdrawn
 - Harry Hillenius made a motion to accept the application withdrawal and Councilperson Ryan Ullman seconded the motion
 - All eligible members present voted in favor of the motion
 - Harry Hillenius made a motion to deny the request for the application fee refund and Paul Kuhn seconded the motion
 - All eligible members present voted in favor of the motion
- 12/8/20 letter from Board Recording Secretary Tara Grunstra Re: Empire Real Estate Holdings, LLC Escrow Shortage
- 12/8/20 letter from Board Recording Secretary Tara Grunstra Re: NYCE Tattoos 946 Spring Valley Road Hearing Date 2/4/21
- 12/10/20 letter from Board Engineer Gregory J. Polyniak Re: Arya Realty Holdings, LLC 138-140 West Pleasant Avenue Completeness, Planning and Engineering Review

- 12/11/20 letter from Board Recording Secretary Tara Grunstra Re: L.M.G., LLC 945 Spring Valley Road Withdrawn Application
- 12/11/20 letter from Board Planner Michael Kauker Re: NYCE Tattoos 946 Spring Valley Road Planning Review
- 12/15/20 letter from Steven C. Schepis, Esq. to Tax Assessor Angela Mattiace Re: Empire Real Estate Holdings, Inc. Lot Merger Request
- 12/18/20 letter from Board Engineer Gregory J. Polyniak Re: Maywood Sherwood Village, LLC 11 West Passaic Street Completeness, Planning and Engineering Review
- 12/21/20 letter from Board Planner Michael Kauker Re: Arya Realty Holdings, LLC 138-140 West Pleasant Avenue Planning Review
- 12/28/20 letter from Board Attorney Kara Kaczynski Re: Area in Need of Redevelopment Study Public Meeting
- 1/8/21 Motion for Reconsideration on Ultimate Force, LLC and Arpad Kertesz v. Zoning Board of the Borough of Maywood and 200 Route 17, LLC
- 1/12/21 letter from David J. Egarian Re: Empire Real Estate Holdings, LLC 191 West Central Avenue Stormwater Test Pit Soil Log
- 1/13/21 letter from James E. Jaworski Re: Arya Realty Holdings, LLC 138-140 West Pleasant Avenue
- 1/15/21 letter from Board Engineer Gregory J. Polyniak Re: GFR Maywood, LLC 18 West Passaic Street & 521 Maywood Avenue Completeness, Planning and Engineering Review
- 1/18/21 letter from Board Engineer Gregory J. Polyniak Re: Donna Spezzaferra 462 Poplar Avenue Engineering Review
- 1/20/21 letter from Board Engineer Gregory J. Polyniak Re: Arya Realty Holdings, LLC 138-140 West Pleasant Avenue Completeness, Planning and Engineering Review
- 1/21/21 letter from Board Recording Secretary Tara Grunstra Re: Donna Spezzaferra 462 Poplar Avenue Hearing Date 2/25/21
- 1/22/21 letter from Board Engineer Gregory J. Polyniak Re: Donna Spezzaferra 462 Poplar Avenue Engineering Review
- 1/22/21 letter from Board Engineer Gregory J. Polyniak Re: Filip Kristani 44 Parkway Engineering Review

Resolution

Derek Eisenberg
 121 Belle Avenue
 Block 64, Lot 13
Calendar #2020-09
Variance Application

John Montel made a motion to memorialize the resolution and Vice Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

Completeness Hearing None

Hearing

Non-Condemnation Preliminary Investigation Area in Need of Redevelopment Study

East Hunter Avenue
Block 126, Lots 43-45
Block 127, Lots 1-3
Block 131, Lots 16 & 17

Board Attorney Kara Kaczynski introduced Board Planner Michael Kauker and Borough Fair Share Housing Counsel Patrick McNamara. Board Planner Michael Kauker was sworn in. He explained that the report was prepared pursuant to Borough Resolutions #125-19 and #165-20. He noted the date of the study was March 2020 and revised October 2020. He then stated that the report is in compliance with Local Redevelopment and Housing Law (LRWL) and the study encompasses 8 properties totaling 5.7 acres. Of the 8 properties; 5 are owned by the Hofmann family, 2 are owned by the Borough of Maywood and the remaining property is owned by Malt Products Corp. and is vacant. The 8 properties have various zoning including Townhouse (TH), Limited Light Industrial (LL) and A-1 Residential. Board Planner Kauker then noted that the statutory criteria to be determined as an area in need of redevelopment is listed on pages 21 and 22 of the report. He explained that the statutory criteria was applied to each of the 8 properties thereby supporting his conclusion that the properties selected can be declared as a redevelopment area. He read the following into the record:

It is our opinion that the total area encompassing these properties qualify as an area in need of redevelopment as they meet the statutory criteria which is evaluated and presented in this report. In support of this opinion, we find that the studied properties exhibit the following physical conditions and characteristics which correlate to several of the required criteria as provided in §40A:12A-5:

Conditions and Characteristics

1. Current building and property conditions all being generally fair to poor. (Criteria a)
2. Buildings and properties are extremely aged and obsolescent both in design and function. (Criteria a & d)
3. Land that has remained vacant for a number of years prior to the adoption of the resolution. (Criteria c)
4. Stagnant and unproductive use due to the ratio of the assessed value of the improvements on the property to the value of the land. The existing uses of the property do not represent the highest and best use of the property. (Criteria e)

Board Attorney Kara Kaczynski explained that the Board must make the determination if the statutory criteria has been satisfied. If yes, the report will be presented to the Mayor and Council for adoption. Once that occurs, the redevelopment plan will be prepared. Borough Fair Share Housing Counsel Patrick McNamara explained that the redevelopment study originated from the Borough's need to satisfy the affordable housing obligation. The study has been shared with the Court's Special Master. He then invited Mr. Sarlo, the attorney for the Hofmann family, to comment on the study. Mr. Sarlo indicated that he was in agreement with the study and the testimony by Board Planner Kauker. Borough Fair Share Housing Counsel McNamara emphasized that the study has been a collaborative project with property owners. The redevelopment plan will provide the zoning goals and requirements similar to municipal master plan.

Chairman Lichtenberger invited the Board to ask questions of Board Planner Kauker or Borough Fair Share Housing Counsel McNamara. Paul Kuhn asked about statutory criteria H-smart growth planning.

Borough Fair Share Housing Counsel McNamara explained that smart growth planning takes into consideration the character of the community during redevelopment.

Chairman Lichtenberger invited the public to ask questions of Board Planner Kauker or Borough Fair Share Housing Counsel McNamara but no one came forward. Board Attorney Kaczynski noted that she and the Board Recording Secretary received a lengthy emailed letter at 6:25pm that night from Joseph Haskins who is the attorney for the Scanel family to be read into the record. She explained that the public may email comments to be read into the record if there are unable to attend the meeting. She identified Mr. Haskins and Michael Scanel in the public and asked if either of them would like to comment or read the emailed letter. Neither Mr. Haskins nor Mr. Scanel responded to her questions.

Harry Hillenius made a motion to recommend to the governing body that the properties included in the East Hunter Avenue Area in Need of Redevelopment Study be deemed as qualified as an area in need of redevelopment and they may proceed to declare it as such. John Montel seconded the motion. All eligible members present voted in favor of the motion.

Application Hearing **GFR Maywood, LLC**
18 West Passaic Street & 521 Maywood Avenue
Block 96, Lots 7 & 8
Calendar #2020-13
Variance & Site Plan Applications

Mayor Richard Bolan and Councilperson Ryan Ullman recused themselves from the hearing and left the meeting at 8:34pm.

Kevin Kelly of Kelly, Kelly, Marotta & Tuchman represents the applicant, GFR Maywood, LLC. He explained that this hearing is a continuation of the hearing from the 12/3/20 meeting. He reminded the Board that the application is for the construction of 4 two-story townhouses. He noted that they have submitted revised site plan drawings based on comments from the Board. He then listed the exhibits marked for this meeting:

- A-10 Site Plan Drawings Dated 7/1/2020 Revised 12/31/2020
- A-11 Stormwater Drainage Calculations Dated 7/1/2020 Revised 12/31/2020
- A-12 Landscape Rendering Dated 11/12/2020 Revised 1/4/2021

Mr. Kelly asked to call Calisto Bertin, the applicant's engineer, to detail the changes made to the site plan. Mr. Bertin remains under oath. He explained that they considered rotating the building facing Maywood Avenue to face West Passaic Street but it wouldn't fit on the lot. He stated that the visitor parking area nearest Maywood Avenue was relocated to between the two buildings. As such, he said that the eastern building was moved 5' to the east to accommodate the visitor parking area. Mr. Bertin explained that the driveway was narrowed from 22' wide to 18' wide. He then displayed Exhibit A-12 Landscape Rendering Dated 11/12/2020 Revised 1/4/2021. He pointed out the landscape that was added to the area by Maywood Avenue since the visitor parking area was relocated. He noted that a pathway from the intersection was added for pedestrian access. He stated that the air conditioning units were relocated to behind the buildings. He added that the entrance and exit to the property have restricted access as right turns only with painted arrows and signage. He identified the swale along the southern property line that was added. Lastly, he said that a French drain was added to the southwest corner.

Regarding Board Engineer Polyniak's Review dated 1/15/2021, Mr. Bertin advised that they comply with all of the comments except the following:

General Comments

- #12 The Applicant shall illustrate any proposed HVAC units or generators for the project and their associated concrete pads and screening. A detail of the concrete pads and screening shall be provided. This comment has been partially address. The Applicant has illustrated the concrete pad locations for the HVAC units. The Applicant shall provide additional screening for the proposed HVAC units. **The additional screening has not been addressed.**
 - Mr. Bertin does not believe that additional shielding is necessary.
- #14 The Applicant shall provide building height calculations. Although the Applicant has provided building height calculations, it is unclear if the calculations are in accordance with the Chapter §209-25.B of the Zoning Ordinance, which defines height as, “The vertical distance of a building measured from the top of the highest point of a structure to the average finished grade taken six feet from the building foundation at the midpoint of each building wall and at a point measured diagonally at 45° from each corner. Where new grades are proposed, any new grade shall not exceed one foot six inches above the existing grade.” The Applicant shall confirm accordingly. In addition, a height variance is required since the new grades exceed one foot six inches above the existing grades. **Although it appears that the Applicant has revised the grading plan for a majority of the site to eliminate any fill exceeding one foot six inches, it appears that the southwest corner of Unit #3 is approximately 1.8 feet above the existing grade (91 feet proposed and 89.2 feet existing). Therefore, a variance is required for this condition. The Applicant shall update the zoning notes on Sheet C1.1 to reflect the same.**
 - Mr. Bertin agreed to remove 4” from the grade to avoid triggering the variance.
- #15 The Applicant shall replace all curb and sidewalk along the property frontage to the satisfaction of the Board Engineer, if necessary. **This comment remains applicable.**
 - Mr. Bertin believes that the curbs and sidewalk are in good condition.

Board Attorney Kaczynski marked Board Engineer Polyniak’s Review Dated 1/15/2021 as Exhibit P-3. Mr. Bertin continued his testimony regarding Exhibit P-3 Board Engineer Polyniak’s Review Dated 1/15/2021:

Grading, Drainage & Utility Comments

- #12 The Applicant shall provide testimony addressing the status of on-site environmental conditions as it relates to the existing monitoring wells and the suitability of residential uses on the property. **This comment remains applicable until the Board has taken action on this application.**
 - Mr. Bertin indicated that a vapor barrier under the proposed structures will be installed due to the proximity to the Shell service station but there has been no evidence of soil or groundwater contamination.
- #19 The Applicant proposes to increase the grades along the southwesterly corner of the site and along the westerly property line. Due to the increased slopes and proximity to adjacent properties, the Applicant shall provide a French drain to capture and infiltrate the runoff. Details of the same shall be provided. **This comment has not been addressed. Although testimony was provided to address this comment, the plans have not been revised.**
 - Mr. Bertin stated that the Applicant will comply with this condition.

Lighting and Landscaping Comments

- #3 The Applicant shall provide testimony addressing potential glare associated with any proposed lighting. **This comment remains applicable until the Board has taken action on this application.**
 - Mr. Bertin does not believe that the proposed lighting will create glare.

Mr. Kelly said that the Applicant has agreed to scope the sewer and conduct a perc test as requested. Mr. Bertin concurred and agreed to the requests made in Exhibit P-3 Board Engineer Polyniak's Review Dated 1/15/2021.

Chairman Lichtenberger invited the Board to ask questions of Mr. Bertin but no one came forward. Chairman Lichtenberger invited the public to ask questions of Mr. Bertin. Bassam Ramadan of 22 West Passaic Street said that he expected written notice of the hearing. Board Attorney Kaczynski reminded him that an announcement was made at the previous meeting on 12/3/20 indicating that the hearing was adjourned to tonight, 1/28/21, without need for additional notice. She noted that he was present when that announcement was made. Mr. Ramadan asked if the sewer easement had been discussed. Mr. Bertin replied that the existing sanitary sewer line runs under Mr. Ramadan's backyard that serves the subject property and there is an easement in place. Mr. Bertin further explained that the sewer line will be inspected to assess the condition. The Applicant will clean the line, if necessary. He believes that the sewer line is sufficient in size for the proposed development. Mr. Ramadan asked about the pipe size and Mr. Bertin answered that the pipe is 4". Mr. Ramadan asked if they would access his backyard for sewer line repairs. Mr. Bertin replied that they would attempt repairs underground first. If that was unsuccessful, they may need to access his backyard. He added that Board Engineer Polyniak would review the video and participate in the decision.

Board Engineer Polyniak would like to address some of Mr. Bertin's testimony. Regarding the screening of the HVAC units, Board Engineer Polyniak believes that the eastern building would benefit from landscape screening as a visual barrier. Mr. Kelly agreed to that condition. Regarding the sidewalk and curbing, Board Engineer Polyniak confirmed that any damaged sidewalk and curbs would be replaced. Mr. Bertin agreed to that condition. Regarding the drainage, Board Engineer Polyniak agreed with the plan presented by the Applicant to extend the French drain. Regarding the lighting glare, Board Engineer Polyniak asked if the applicant would agree to perform an analysis within 3 months of the project's completion. Mr. Kelly agreed to that condition. Regarding the sanitary sewer easement, Board Engineer Polyniak confirmed that a temporary construction easement may be needed for construction equipment. Mr. Kelly is unsure of the language of the easement but agreed to notify the Borough and property owner if access was needed. Board Planner Michael Kauker feels that the changes made to the plan by the Applicant has improved the aesthetic appearance of the project.

Mr. Kelly called his next witness, Hal Simoff. Mr. Simoff is a traffic engineer and remains under oath. Mr. Kelly confirmed that Mr. Simoff's testimony has not changed given the revised site plans and the revised plans do not change the traffic impact of this project. Mr. Simoff explained that the traffic impact is the same and the driveway width reduction has a positive benefit of additional landscaping. Chairman Lichtenberger invited the Board and Board professionals to ask questions of Mr. Simoff but no one came forward. Chairman Lichtenberger invited the public to ask questions of Mr. Simoff. Bassam Ramadan of 22 West Passaic Street asked Mr. Simoff to clarify the anticipated traffic impact of the proposed development. Mr. Simoff repeated that access will be limited to right turns in and right turns out. In terms of trip generation, he believes that this project will contribute a negligible number of cars to the traffic flow when the roadway carries approximately 1,000 cars an hour at peak hours. Mr. Ramadan did not agree with this assessment and asked about the enforcement of the turn restriction. Mr. Simoff answered that signs will be posted which can be enforced by the police department. Mr. Kelly added that the Applicant will give the Borough Title 39 enforcement powers on private property as a condition of approval.

The applicant's final witness was Brigette Bogart who is a professional planner. Board Attorney Kaczynski requested that Ms. Bogart be sworn in again and Mr. Kelly agreed. Ms. Bogart was sworn in. Given that her testimony was rushed at the last meeting and there were changes to the plan, Mr. Kelly began to ask Ms. Bogart a series of questions. She stated that the Applicant is seeking a D(1) use variance for a Townhouse (TH) use in the A-1 One Family Residential zone and a C(2) variance for rear yard setback. The density and distance between buildings are non-conformities for the Townhouse (TH) zone so they would not apply since the lots are zoned A-1 One Family Residential. Under the Medici standard, she believes that the project supports the MLUL purpose A to encourage municipal action to guide the appropriate use or development of all lands in the municipality in a manner which will promote the public health, safety, morals, and general welfare. She noted that the location is a transitional site between single family homes, garden apartments, a public park and a gas station. In terms of density, the garden apartment complex to the north of the subject property has a higher density than what is being proposed. For the use variance, she believes that project furthers the MLUL purpose E to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment. Mr. Bogart stated that Garden Apartment (GA) zone does not have a density requirement. The garden apartment complex mentioned has 64 apartments on 2 acres translating to 32 units per acre. The proposed development has a much lower density of 10.45 units per acre. Lastly, she believes the project supports the MLUL purpose I to promote a desirable visual environment through creative development techniques and good civic design and arrangement. She explained that the property's current condition is a vacant building that was used as an office which is nonconforming use. The proposed residential use is bringing the property closer to conformity with the zoning requirements. She stated that the plan revisions promote and improve the design. According to the 2003 master plan and 2019 reexamination, she explained that there are 4 goals and objectives that are furthered with the proposed development. They are:

- Continue to promote and upgrade the Central Business District (CBD) through the established Special Improvement District (SID) to ensure the viability of the downtown area amidst continuing pressures of near-by shopping centers (Westfield Garden State Plaza, The Outlets at Bergen Town Center and The Shops at Riverside).
 - She believes that this development will result in residences within walking distance to the CBD.
- Maintain and enhance the quality of established neighborhoods in Maywood including the protection of the residential character and prevailing densities of the community.
 - As she stated previously, the proposed density is less intense than the nearby garden apartments.
- Preserve and promote a balanced variety of residential, commercial, office, light industrial, public and quasi-public and recreational land uses.
 - She believes that this type of housing furthers this goal.
- Provide housing opportunities and a variety of housing for various income levels of the population including senior housing.
 - She believes that this project furthers this goal.

Ms. Bogart explained that the Medici standard has a criteria of being either that the use inherently serves the public good or that the site is particularly suited for the use. She believes that the site is particularly suited for the use because of the transitional nature of the location and the surrounding land uses and densities. For the C(2) variance for the rear yard setback, the criteria is that the granting of the variance will advance the purposes of the MLUL, the benefits outweigh the detriments and address the negative criteria. She feels that the proposed development furthers MLUL purpose A to encourage municipal action to guide the appropriate use or development of all lands in the municipality in a manner which

will promote the public health, safety, morals, and general welfare, and MLUL purpose I to promote a desirable visual environment through creative development techniques and good civic design and arrangement. She feels that the two main components of the project support this, the rear yard setback allows more green space in the front yard away from street traffic on a busy roadway and the removal of a non-conforming structure. She explained that the benefits of the aesthetically pleasing front yard outweigh any detriments. She added that the detriments of the rear yard setback encroachment are mitigated by the landscape design. Regarding the negative criteria, Ms. Bogart does not believe that there would be substantial detriment to the public good and the granting of the variance will not substantially impair the intent and purposes of the zoning ordinance. Per the testimony of Mr. Bertin and Mr. Simoff, she does not believe that there would be a negative impact to the public as the project has been engineered and designed appropriately. She does not feel that that granting the variances would substantially impair the master plan. As such, she feels that the proposed development meets the positive and negative criteria for use variance relief and the proofs necessary for bulk variance relief.

Chairman Lichtenberger invited the Board and Board professionals to ask questions of Ms. Bogart. Board Planner Kauker felt Ms. Bogart's testimony was comprehensive and he had no issues with the proofs provided. Chairman Lichtenberger invited the public to ask questions of Ms. Bogart but no one came forward.

Chairman Lichtenberger invited the public to comment on the application. Bernadette Gooney of 476 Oak Avenue is opposed to the granting the rear yard setback variance. She feels that the westerly building will be too close to her backyard thereby losing her privacy. It is her understanding that there should be a 10' planting buffer. She is concerned that the landscaping proposed will take years to mature and the relocation of air conditioning units bring them closer to her property. She works nights as an ICU COVID-19 nurse and believes that the construction noise will interrupt her daytime sleep schedule. As a result, she believes that she will need to temporarily relocate during construction. Mr. Kelly responded that the Applicant intends to install a 6' fence and landscaping to shield the property. Ms. Gooney is concerned that the landscaping will take years to mature. After consulting with Mr. Bertin, Mr. Kelly offered to relocate the air conditioning units from the rear of westerly building to the eastern side of the building. Board Engineer Polyniak suggested planting mature trees of 6'-8' along the border of Ms. Gooney's property so that the screening would be immediate. Mr. Kelly agreed to planting mature trees on the border of Ms. Gooney's property. He was unsure if the air conditioning units could be relocated.

Bassam Ramadan of 22 West Passaic Street opposes approving the application. He feels that his property should have been included in the development. Mr. Kelly stated that Mr. Ramadan was approached but that the parties could not come to agreement on price. He added that the law does not require the purchase of additional properties. Mr. Ramadan explained that by including his property in the development, site access could be through Oak Avenue which he feels would be an improvement over the West Passaic Street access. He is unhappy with sanitary sewer easement. Mr. Kelly stated that the Applicant did approach Mr. Bassam to purchase his property but Mr. Bassam wanted \$450,000 to sell his property and the Applicant did not agree to that price. Mr. Kelly displayed Exhibit A-7 Rendering in Bar Harbor Blue to remind the Board of the quality construction being proposed. He believes that the transitional development will benefit the area and believes that an alternate use such as retail would be more intense.

Bernadette Gooney of 476 Oak Avenue asked if she could be notified of the intended start of construction so that she could make arrangements to temporarily vacate the property. After some discussion, Mr. Kelly agreed to the request.

Chairman Lichtenberger asked the members of the Board to provide their thoughts on the application. Harry Hillenius feels that proposed townhouses would improve the area. Paul Kuhn believes that the derelict condition would be improved by the development. He added that retail development would negatively impact the area with increased traffic. Vice Chairperson Charlotte Panny considers the proposed development as a good solution and feels the use is appropriate. John Montel finds the project aesthetically pleasing. John Gargagliano concurs with the other Board members.

Fire Official Tom Tuttle stated that a fire alarm system would be required to comply with NFPA 72 and he requested central station monitoring. Mr. Kelly agreed to that condition.

Gary Neumann feels the proposed project is a good fit for the property. Board Attorney Kaczynski confirmed Geoffrey Smith did not review the recording of the 12/3/20 hearing so he was not qualified to comment or vote on the application. Chairman Lichtenberger reminded the Board of a previous application to develop the property that he felt was more intensive than this application. He acknowledged the busy intersection and agreed with the other Board members' assessment.

Board Attorney Kaczynski offered to summarize the conditions of approval as part of the motion:

- Provide proof that an application before Bergen County is not required.
- Comply with any development fee ordinance.
- Conduct a perc test.
- Confirm that the sanitary sewer line has sufficient capacity.
- Consolidate the two lots into one lot.
- Lights must be dimmable and reduced to 50% at a specific time.
 - A lighting analysis will be performed to assess that if adjustment is necessary.
- Comply with conditions listed in Exhibit P-3 Board Engineer Polyniak's Review Dated 1/15/2021 with the following exceptions.
 - General Comments #12, #14 and #15
 - Grading, Drainage & Utility Comments #12 and #19
 - Lighting and Landscaping Comments #3
- Install signage that site access would be limited to right turn in/right turn out per Exhibit A-10 Site Plan Drawings Dated 7/1/2020 Revised 12/31/2020.
- Relocate HVAC units to the eastern side of Unit #4.
- Permit Title 39 enforcement on the site.
- Plant trees of 6'-8' in height along the south westerly property line.
- Comply with NFPA 72 fire alarm system requirement and the requested central station monitoring.
- Will advise adjacent property owners of the anticipated commencement date of construction.
- Add landscaping to screen the eastern building air conditioning units.

Harry Hillenius made a motion to approve the applications with the above listed conditions. John Gargagliano seconded the motion. All eligible members present voted in favor of the motion.

Informal Hearing

None

Closed Session

None

Old Business

- Chairman Lichtenberger reminded the Board that the Mayor makes appointments to the Board.
 - Board Attorney Kaczynski added that members are generally appointed when terms end and alternates do not always move up when they are reappointed.

New Business

- Ordinance amendment allowing the Board Engineer to deem an application complete and grant waivers.
 - Board Attorney Kaczynski offered to share examples of ordinances that have the Board Engineer deem applications complete and grant waivers to expedite the application process.
- 2/4/21 meeting cancellation.
 - Since the NYCE Tattoos hearing was rescheduled and there are no other matters scheduled, Chairman Frank Lichtenberger made a motion to cancel the 2/4/21 meeting.
 - Paul Kuhn seconded the motion and all eligible members voted in favor of the motion.

Open Meeting to the Public**Adjournment**

A motion to adjourn the meeting was made by Harry Hillenius. Geoffrey Smith seconded the motion. All members present voted in favor of the motion. The meeting was adjourned at 10:02pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary