

MAYWOOD PLANNING BOARD

MINUTES

July 23, 2015

A regular meeting of the Maywood Planning Board was held on Thursday, July 23, 2015 in the Council Chambers of the John A. Steuert, Jr. Municipal Complex, 15 Park Avenue, Maywood, New Jersey at 7:30 P.M. “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 December 11, 2014. 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.”

Flag Salute

Call to Order: The meeting was called to order at 7:35pm with the following members present: Chairman Frank Lichtenberger, Secretary Charlotte Panny (arrived at 7:38pm), Councilman Rick DeHeer, John Montel, Harry Hillenius, John McManus and Anthony Klymenko. Also present were Board Attorney Kara Kaczynski, Board Engineer Tom Lemanowicz and Board Planner Michael Kauker (arrived at 8pm).

Approval of Minutes: Harry Hillenius made a motion to accept the minutes from the June 25, 2015 meeting. Councilman Rick DeHeer 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. Chairman Frank Lichtenberger seconded the motion. All members present voted in favor of the motion.

Correspondence:

- 1) 6/25/15 memo from Maywood Planning Board c/o Kara Kaczynski to the Borough of Maywood Mayor and Council – Re: Recommended Amendments to Chapter 209 of the Borough of Maywood Land Use Ordinance
- 2) 7/6/15 Letter from Patrick J. McNamara of Scarinci Hollenbeck Re: Mount Laurel Declaratory Action and Notice of Motion For Temporary Immunity from Mount Laurel Lawsuits
- 3) 7/10/15 Request of Proximity Property Owners for 125 Essex Street (Block 131, Lot 5)
 - o Board Attorney Kara Kaczynski was contacted by the owner’s attorney. They are expected to file an application for a use variance. The property was Bon Buffet restaurant and the future tenant is expected to be Dollar Tree mercantile
- 4) 7/20/15 letter from Tara Grunstra to Holly Schepisi counsel for Maywood Rx Development, LLC Re: Application Withdrawal
- 5) 7/21/15 letter from James E. Jaworski, Counsel for Fitness & Wellness of Hackensack, LLC – Re: Timing for the Traffic Analysis and Beech Street Extension
- 6) 7/22/15 letter from Michael F. Kauker – Re: Housing Element and Fair Share Plan Proposal

Resolutions:

Resolution Awarding Professional Planning Service Contract for Preparation of Conceptual Development Plan for Route 17 Area in the Borough of Maywood
Calendar # 2015-07

Secretary Charlotte Panny made a motion to accept the resolution. Councilman DeHeer seconded the motion. All members present voted in favor of the motion.

Resolution Awarding Professional Planning Services Contract for Preparation of a “Housing Element and Fair Share Plan” for the Borough of Maywood
Calendar # 2015-08

Secretary Panny inquired if Mr. Kauker has access to the previous “Fair Share Plan” and Chairman Lichtenberger explained that Mr. Kauker does have a copy. Chairman Lichtenberger further explained that information required to do this plan is the same that would be needed for a Master Plan. As such, he recommends that once the “Housing Element and Fair Share Plan” is completed, the Board engage Mr. Kauker to update Maywood’s Master Plan. John Montel made a motion to accept the resolution. John McManus seconded the motion. All members present voted in favor of the motion. Mr. Kauker would like to begin work immediately. At the next meeting on August 6, 2015, he would like to have a scoping session on this subject. He expects that it will take approximately 30 minutes.

Hearing: None

Informal Hearing: None

Old Business:

- James Jaworski, here on behalf of Fitness & Wellness of Hackensack, LLC began by introducing two of the Fitness & Wellness of Hackensack principals; Steve Kay and Leslie Adelman Banks. This meeting is a continuation from the May 28, 2015 meeting and the purpose is to address two items; the traffic study and update the Board on the communication with Kin Properties.
 - The Traffic Analysis is nearly ready but incident reports from Chief David Pegg were required. The incident reports were received but not in time to give the Traffic Analysis to Board Engineer Tom Lemanowicz two weeks prior to the meeting.
 - Mr. Jaworski had a conference call in mid-June about the future of the Kin Properties Site with their special counsel, Howard Heller, and their real estate representative, Lee Cherney. Mr. Jaworski has drafted a letter to the Board explaining what was discussed but is awaiting on approval from Mr. Heller.
 - Mr. Jaworski explained that there is a definitive time for the Sears lease to end and an unlikely chance that the lease may end early. Remediation will begin as soon as the lease ends. There is a chance of asbestos in the building which may slow demolition down.

- Kin has been discussing leasing opportunities with Fortune 500 companies but did not disclose which ones specifically. Nothing definite has been decided.
- Kin agreed that their property and the Fitness & Wellness of Hackensack's property have common goals and should work together going forward. Kin promised to share existing surveys and allow surveyors for Fitness & Wellness of Hackensack access to their property in order to survey in the future. They will need to ask Sears for permission first. Kin has subsequently provided those promised surveys to Fitness & Wellness of Hackensack.
 - Once permission is granted, Fitness & Wellness of Hackensack will begin surveying the property in order to establish a Beech Street expansion roadway.
- Chairman Lichtenberger brought Mr. Jaworski up-to-date on the contact between the Borough and Kin. Specifically, the Borough facilitated a meeting with NJ Senators and Kin about EPA issues. Ultimately, he would like the Board and Kin to dialog directly. Chairman Lichtenberger believes sharing the Route 17 Redevelopment Concept Plan with Kin Properties would be beneficial.
- Mr. Jaworski would like to discuss the plans of Fitness & Wellness of Hackensack with Mr. Kauker as part of his Route 17 Redevelopment Concept Plan.
- Mr. Jaworski is requesting a prolonged adjournment. Chairman Lichtenberger does not see a problem in keeping Howcroft Road open for another six months and adjourning the application without need to notice.
- Mr. Jaworski offered to share the existing and future surveys. He agreed with Chairman Lichtenberger that the Beech Street extension would be established prior to Phase 2 of Fitness & Wellness of Hackensack beginning.
- Chairman Lichtenberger asked about Fitness & Wellness of Hackensack installing sidewalks on Howcroft Road as they had proposed at the February 26, 2015 Board meeting.
 - Harry Hillenius reminded the Board that a number of residents walk to the facility using that access point. When the Beech Street extension is complete, these people will still continue to walk using Howcroft Road so adding sidewalks would be beneficial.
 - Mr. Jaworski agreed that adding sidewalks would be valuable. Fitness & Wellness of Hackensack had a preliminary plan with costs calculated.
 - Chairman Lichtenberger emphasized that the sidewalks could be simple and felt that landscaping and decorative curbs were unnecessary.
 - Harry Hillenius asked who owns the property and Mr. Jaworski confirmed that the Borough owns the property as a right-of-way.
 - Mr. Hillenius then pointed out that the Borough would be responsible for snow removal. He suggested that the Fitness & Wellness of Hackensack include the sidewalk as part of the snow removal plan. Mr. Jaworski didn't think that would be a problem.
 - Mr. Jaworski agreed to approach the Mayor and Council about pursuing the project.

- Fitness & Wellness of Hackensack will approach the Mayor and Council as a stipulation to the Board for adjourning the application for 6 months.
 - Mr. Jaworski requested that part of the performance bond be released to fund the sidewalk expansion and he believes the project would cost \$80,000. He will send a letter with the details of the project.
 - John Montel made the motion to adjourn the application without need to notice to the January 28, 2016 meeting and Secretary Panny seconded the motion. All eligible members voted in favor of the motion.
- 6/25/15 memo from Maywood Planning Board c/o Kara Kaczynski to the Borough of Maywood Mayor and Council – Re: Recommended Amendments to Chapter 209 of the Borough of Maywood Land Use Ordinance
 - John McManus had a question on Other Proposed Code Amendments #3.
 - §209-11 of the Code notes that five (5) members of the Board constitutes a quorum, but no less than four (4) affirmative votes may approve an application. Only a majority of the eligible voting members present are required to approve an application, with the exception of an application that requires the approval of a (d) variance. Therefore, if 5 members are present, a vote of only 3 not 4 members would be necessary, unless a use variance was required.
 - Board Attorney Kaczynski explained that Land Use law is specific to the number of votes required for approval of an application and a majority is required unless the application is for a use variance. The Borough Code currently conflicts with this and may be grounds for an appeal.
 - Mr. McManus believes that this stems from the Board having 7 members and 4 alternates. Four votes would be a majority if the Board was 7 members.
 - Board Engineer Tom Lemanowicz agreed that the Borough Code should comply with the Land Use law. He suggested that the Borough Code defer to Land Use law on the issue of voting and not specify the number of votes required for application approval.
 - Board Engineer Lemanowicz had a number of comments that he began to detail.
 - 2(a) The definition of shed should include a maximum square footage. He recommends 100 square feet maximum used to store equipment and prohibiting plumbing and heating.
 - 2(e) The proposed definition of front yard is based on mailing address while he believes that it should be based on a zoning definition.
 - There is a question of the process of how the Tax Assessor changes a property’s mailing address and how that impacts zoning.
 - He recommends identifying the front yard as the shorter length of the property and the longer lengths as the sides.
 - Chairman Lichtenberger noted that there are houses in the Borough that are “sideways” with the front of the property being the longer

length. He feels that there proposed definition applies better to Maywood properties.

- Board Attorney Kaczynski explained that there is a need to define the front yard particularly for corner properties.
- Designating by main entry point can be confusing since some properties have side entries.
- The Board felt that the proposed definition was best; “The front yard of a corner lot, as defined herein, shall be that portion of the property that is adjacent to the street that is listed as the mailing address of the property”.
- 2(f) The definition of cellar needs to be clarified.
 - He feels that the definition from §330-13B[11] CELLAR: “The lowest story of any building, dwelling or tenement house or a story in which 1/3 or more of the height from the floor to the ceiling is below ground level” is too vague.
 - He suggested specifying, “1/3 or more of the wall surface measured by taking a ratio of the total wall area above grade divided by the total wall area of the level”.
 - He feels that word “story” may be used incorrectly since the code states that “A cellar that is more than 1/3 below grade shall not be a story” This conflicts with the definition from §330-13B[11].
 - He suggests switching out the word “story” with “habitable level” so that the definition reads as “A habitable level in which 1/3 or more of the wall surface from the floor to the ceiling is below ground level. A cellar that is more than 1/3 below grade should not constitute a story.”
- Chairman Lichtenberger suggested that Board Engineer Lemanowicz summarize his suggested changes in a memo to the Board which can be discussed at the next meeting on August 6, 2015.
- The Tan Tan Station window sign that violated the Borough code was still in place.
 - The Zoning Officer provided the applicant with the appropriate size of a window sign and the applicant agreed to replace the current sign with the appropriate size.

New Business: None

Open to the Public: None

Adjournment: A motion to adjourn was made by Harry Hillenius. John McManus seconded the motion. The meeting was adjourned at 8:33pm.

Respectfully submitted,

Tara Grunstra
Secretary