

MAYWOOD PLANNING BOARD
MINUTES
November 2, 2017

A regular meeting of the Maywood Planning Board was held on Thursday, November 2, 2017 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 23, 2016. 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 7:30pm with the following members present: Chairman Frank Lichtenberger, Secretary Charlotte Panny, Councilman Rick DeHeer, Gary Neumann, John Montel, Harry Hillenius, John McManus, Anthony Klymenko, Daniel Nemecek and John Gargagliano. Board Attorney Kara Kaczynski and Board Engineer David Gleassey were also present.

Approval of Minutes

Councilman Rick DeHeer made a motion to accept the minutes from the September 28, 2017 meeting. Secretary Charlotte Panny 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. Gary Neumann seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

- 10/10/17 letter from Steven C. Schepis Re: Empire Real Estate Holdings 191 West Central Avenue Additional Document Submission
- 10/23/17 letter from Steven C. Schepis Re: Empire Real Estate Holdings 191 West Central Avenue Planner Memo
- 10/27/17 memo from Maywood Police Department Chief David Pegg Re: Empire Real Estate Holdings 191 West Central Avenue

Resolution None

Councilman DeHeer recused himself from the hearing and stepped down from the dais.

Hearing

Empire Real Estate Holdings, Inc.

191 West Central Avenue
Block 122, Lots 15 & 16.01

Calendar #2016-15

Use Variance, Bulk Variances and Site Plan Applications

Steven Schepis is counsel for the applicant, Empire Real Estate Holdings. He reminded the Board that this hearing was adjourned from the 9/28/17 meeting. Since that meeting, the applicant has submitted additional documentation. Both he and Board Attorney Kara Kaczynski believed that establishing the exhibit list would be beneficial:

- Exhibit A-1: Site Plan created by David J. Egarian 8/30/17 revision date
- Exhibit A-2: 10/10/17 letter from Steven C. Schepis Re: Empire Real Estate Holdings 191 West Central Avenue Additional Document Submission
- Exhibit A-3: 10/23/17 letter from Steven C. Schepis Re: Empire Real Estate Holdings 191 West Central Avenue Planner Memo

The first witness was the applicant's engineer David Egarian. He remains under oath and his credentials have not changed since the last hearing on 9/28/17. He was in receipt of the 10/27/17 memo from Maywood Police Department Chief David Pegg and would like to address the concerns raised in the memo. Mr. Egarian took the Board's input about the parking layout from the previous hearing into consideration when he revised the site plan with the 10/23/17 revision date which was marked as Exhibit A-4. The plan reflects 16 60°(degree) angled parking spaces, concrete curbs placed around the three utility poles, wheel stops were added to each parking space and landscaping was added around the freestanding sign with an arbor vitae screen. A photo of arbor vitae was marked as Exhibit A-5.

Mr. Schepis suggested to the Board that the applicant could limit the parking of the ambulances and ambulettes to the north side of the building further away from the intersection of West Central Avenue and Hergesell Avenue. The employee passenger vehicles would then park on the south side of the building. He believes that this would allow the building to screen the ambulances and would assist in turning movements so that the ambulances would not back into the public roadway. This concession by the applicant could be a condition of approval.

Mr. Egarian continued his testimony by explaining that he utilized a program called Auto Turn to show how vehicles would enter and exit the property. The utility poles on the property would interfere with vehicle movements. As such, he modified the parking layout and amended the site plan. The site plan with a 11/2/17 revision date was distributed to the Board and marked as Exhibit A-6. The site plan was revised in response to the concerns raised in 10/27/17 memo from Maywood Police Department Chief David Pegg. The parking spaces south of the building have the orientation reversed so that vehicles traveling south on Hergesell Avenue could pull directly in. When the vehicles parked in these spots reversed out, they would continue in the southern direction toward West Central Avenue. The utility pole would not interfere in vehicle movement with this orientation. The orientation of the van accessible ADA parking space was not changed. On the north side of the building, four parking spaces had their orientation reversed to avoid the utility pole interference. The other five spaces north of the building would not have their orientation changed. The site plan shows several vehicle turning movements using the

Auto Turn program. This shows that the vehicles can reverse up to the edge of pavement with one exception, there is a possibility that the largest vehicle rear overcarriage may protrude 18" into the roadway. Mr. Egarian then displayed an enlargement of the parking layout from the site plan which was marked as Exhibit A-7. He explained that the arbor vitae screen was moved closer to the freestanding sign to allow for an additional parking space bringing the total proposed parking space to 15. The planting will not impede sight visibility.

Prior to tonight's meeting, Mr. Egarian visited the site and conducted turning movements on both the north of the building and the south of the building using the tenant's largest vehicle. Through this demonstration, they discovered that the vehicle encroached passed the edge of pavement on the south side of the building. The distance between the top of the bank to the edge of the pavement on the south side of the building is 31'. The distance between the top of the bank to the edge of the pavement on the north side of the building is 34'. As such, there is no encroachment on the roadway on the north side of the building. Mr. Egarian took photographs of this demonstration and distributed a one-page sheet of two photographs marked as Exhibit A-8. The first photograph shows the ambulance parked at a 60°(degree) angle on the property and the second photograph shows the ambulance reversing out of the parking space without encroaching onto the roadway. Board Attorney Kaczynski clarified that total number of proposed parking spaces is 15. She noted that the second photograph shows a passenger vehicle parked on the northside of the building and Mr. Egarian affirmed that the ambulance would not encroach on the roadway even if another ambulance was parked where the passenger car was parked.

Mr. Egarian suggested that the applicant could paint a stripe on Hergesell Avenue 3' from the edge of pavement and 12' from the center line to demarcate a 12' driving lane which would allow the applicant to utilize a 3' shoulder area for additional back-up distance. This would give extra room for any potential encroachment. He added that Hergesell Avenue is a double yellow line roadway marked at the north and south end. Mr. Schepis offered that, as a condition of approval, the applicant would repaint the double yellow line that has worn away. Mr. Egarian noted on the site plan that the curb stops and guiderail have been replaced by a 6" concrete curb along the top of the slope to utilize the vehicle overhang. In Phase 2, the applicant will pave the parking area and the concrete curb will be a stabilizing point so the asphalt does not break away. Mr. Schepis stated that should the application be approved, Phase 1 improvements would begin immediately. He reminded the Board that Phase 1 would address the white line striping, double yellow line striping, curbing, utility pole islands and angled 6" concrete curbs which would not require DEP approval. Phase 2 would be contingent on the DEP permit approval which could take up to six months. Submittal of the DEP application could be 30 to 60 days from receipt of the Planning Board resolution. The Phase 2 project consists of paving and installation of curbing on the eastern edge of the property.

Board Attorney Kaczynski asked if there has been any discussion with the DEP about the riparian buffer requirement. Mr. Egarian replied that there has not but he has reviewed the regulations. He believes that an individual permit will be required. He explained that the riparian buffer is 25' from the top of the bank. Mr. Schepis explained the since the riparian buffer is already disturbed, he believes that DEP will be flexible. Mr. Egarian then showed the Board where the riparian buffer was located related to the brook, parking and property line. He further explained that the purpose of a riparian buffer is for the over land storm water flow to go

towards the brook through vegetation to filter the storm water. Board Attorney Kaczynski pointed out that the parking area is within the riparian buffer and Mr. Egarian concurred.

Mr. Egarian addressed Chief Pegg's 10/27/17 memo comment #2 about the full faced curb for parking space 16 by expanding the depressed curb on the site plan. Uniform traffic control markers have been added to the utility poles. The zoning table was updated to reflect that the existing and proposed lot coverage is 5.7% where a maximum of 40% is required. The previous site plan had the existing and proposed lot coverage as 43%. The calculation was revised since they no longer consider the gravel parking area as impervious. As such, the 5.7% lot coverage reflects the building only per the ordinance definition. Therefore, a C variance would not be required. Mr. Schepis mentioned that the applicant will need to satisfy DEP requirements such as water quality testing, additional vegetative plantings on the bank, etc. Board Attorney Kaczynski requested further clarification on the coverage requirement. She noted that the Borough code §209-25 defines impervious materials as:

Buildings, structures, concrete, asphalt, brick, pavers, flagstone and other paved surfaces.

Mr. Schepis cited Borough code §209-25 defining lot coverage as:

The area of a lot covered by the buildings, garage areas, swimming pools (and surrounding decking), porches, decks, cabanas, sheds, gazebos, and/or any other accessory buildings.

He referenced the pre-existing right-of-way easement bridge leading to the Maywood Healthcare Facility on the northernmost area of the property as contributing 3% of the impervious coverage. He explained that should this section be deducted from the 43% total impervious coverage; the applicant would satisfy the 40% requirement.

Chairman Lichtenberger noted that while the tax address is 191 West Central Avenue, most of the activity on the property is on Hergesell Avenue. As such, the front and rear yard setback requirements would not be satisfied if the property had a Hergesell Avenue address.

Chairman Lichtenberger invited the public to ask questions of Mr. Egarian.

Rick DeHeer of 18 Hammel Place asked Mr. Egarian about the proposed white stripe in the roadway of Hergesell Avenue. Chairman Lichtenberger does not believe that applicant can do this without first receiving approval by the governing body and the police department. Board Attorney Kaczynski offered that approval by the governing body could be a condition of approval. Mr. Egarian suggested that if the ambulances/ambulettes are restricted to the north side of the building, the white striping would not be necessary since the encroachment only occurs on the south side of the building where the property is narrower. Mr. DeHeer does not believe that the five parking spaces on the south side of the building will be sufficient parking for all of the employees. Mr. Schepis suggested having the tenant speak to that issue when he testifies.

Board Engineer David Gleassey agrees with Chief Pegg's 10/27/17 memo about the northerly parking spaces backing out on a curb return. This is not a common practice and he recommends against it given the high traffic volume in the area. He recommends replacing all of the curbing along Hergesell Avenue and Mr. Egarian explained that the applicant is prepared to do so. Mr.

Schepis believes that the proposed white stripe is not necessary and will not recommend it going forward if the Board is not interested in it. If the Board would like the white striping, he is willing to make it contingent on municipal approval.

The second witness was the applicant's tenant Elidon Deliaj part owner of Metro Ambulance and he remains under oath. He agreed to limit the parking of the ambulances and ambulettes to the north side of the building and have the employee passenger vehicles park on the south side of the building. Each ambulance has a crew of 2 people and each ambulette also known as mobility assistance vehicles/coach van has a crew of 1 person. Since there is no on-street parking on West Central Avenue and Hergesell Avenue, he can ensure that his employees will either carpool or make other arrangements so as not to park on the property. There are five ambulances, three ambulettes and three office staff which would require 16 parking spaces. Arrangements could be made to carpool or rent parking spaces elsewhere. Mr. Schepis emphasized to Mr. Deliaj that there would be legal consequences should the terms of the resolution be violated.

Board Attorney Kaczynski confirmed that Mr. Deliaj's business has contracts with nursing homes, hospitals and healthcare facilities. Their service is for non-emergency calls and appointments are made in-advance. Secretary Charlotte Panny drove past the property today and the parking lot seemed to be full. She observed stacked vehicles and an ambulance was parked in front of the building garage doors. Mr. Deliaj agreed and said that as employees arrive and leave, vehicles are shuffled around the parking area. He described how vehicles sometimes temporarily park in front of the garage doors but they will change this behavior going forward. He believes that she drove by while Mr. Egarian was conducting the turning movement demonstration. Chairman Lichtenberger drove past the property on a Monday afternoon and saw the parking lot was full with 12 cars. John Gargagliano asked if Mr. Deliaj's ambulances could be dispatched by a hospital in an emergency and Mr. Deliaj replied that they could not because they are limited to transport only. They do not engage their lights and sirens. Mr. Schepis explained to Mr. Deliaj that should the Board approve the application, a condition that would be imposed that the business is non-emergency patient transport only. Mr. Deliaj would be required to come back to the Board if he would like to change the nature of his business and pursue emergency calls. Gary Neumann asked if any disabled vehicle will be stored at the property. Mr. Deliaj answered that all ambulances would be working and used. They are currently refurbishing an ambulance on the property but it is nearly operational. He added that because of the heavy mileage that these vehicles accumulate, they are often retired/refurbished every few years. The space limitations will not permit non-working vehicles to be stored on-site. Vehicles can be equipped on-site but are sent to other locations to be lettered and inspected. Equipping means to fill the vehicles with supplies like band-aids, etc.

Harry Hillenius asked about the hours of operation. Mr. Deliaj replied that the hours of operation are 24 hours a day/7 days a week but the staff is at the location from 8am-6pm. Staff is on stand-by outside of these hours. Mr. Hillenius asked how the vehicles are acquired. Mr. Deliaj answered that they are purchased used but they are well maintained. Mr. Hillenius is concerned that a vehicle could leak fluid into the brook and Mr. Deliaj agreed that it happens. He promised to monitor the vehicles to avoid this problem. Mr. Schepis mentioned a curb on the eastern edge is proposed. Mr. Hillenius asked about snow removal. Mr. Deliaj replied that the property owner plowed the snow off to the sides of the property but not toward the brook. Mr.

Hillenius asked how many vehicles were parked on the property when it snowed and Mr. Deliaj answered that there were less vehicles parked on the property and the snow volume wasn't great. Chairman Lichtenberger asked how Mr. Deliaj can grow his business when it already seems too big for this location. Mr. Deliaj is in discussion to rent another location in Paramus and has an existing relationship with a mechanic in Clifton. John Montel asked if most employees arrive at the office at 8am. Mr. Deliaj replied that it varies. A group arrives at 4am and then another at 7am with additional staff arriving at 8am and 9am. Mr. Montel asked if Hergesell Avenue ever gets blocked while vehicles are shuffling around. Mr. Deliaj does not believe that this has occurred since employees arrive at staggered times. Mr. Schepis believes that the angled spaces will prevent vehicles from backing onto Hergesell Avenue. During the turning movement demonstration conducted by Mr. Egarian, the largest vehicle (ambulance) stayed within the property when reversing to exit. Board Attorney Kaczynski confirmed that there are back-up alarms on the vehicles and Mr. Deliaj admitted that they don't always work but then he has them fixed. He described the back-up beeping as annoying and loud. John Gargagliano asked if the ambulances idle. Mr. Deliaj answered that they have a GPS system installed that if a vehicle idles for more than 15 or 20 minutes, he gets an alert on his phone. They have a non-idling policy.

Chairman Lichtenberger invited the public to ask questions of Mr. Deliaj but no one came forward.

The next witness for this hearing was the applicant Michael DeMarco and he remains under oath. He explained that snow removal has not been a problem with the property thus far. Should there be a very heavy snowfall, his business would haul the snow away in dumpsters. He added that the restrictions that have been discussed are agreeable to him and could be put in a new lease with his tenant. Should the tenant violate the terms of the restrictions, it could be void the lease. Mr. DeMarco believes that the concrete curbs will help the ambulance and ambulance drivers with parking only in assigned locations. He believes that they are confused about where to park since the parking area is not marked. Harry Hillenius clarified that the gravel parking lot will not be lined. Mr. DeMarco concurred that the lining will be part of Phase 2 but the concrete curb in Phase 1 will demarcate the parking spaces. He wants to beautify the location. Harry Hillenius referenced the CCO approved on 7/21/04 which transferred ownership from Robert Paglinco to Michael DeMarco. The CCO detailed that the garage would store three Ford pick-up trucks and no outside storage of vehicles would be permitted without Board approval. Mr. DeMarco disagrees and had his business vehicles parked there since he purchased the property. He purchased the additional parcel from the town in order to park more of his business vehicles there. He has paid taxes on the property and would like to be able to use it for rental income to cover his expenses. Mr. Hillenius believes that the proposed parking layout would be an overuse of the property.

Board Attorney Kaczynski inquired about the timing of each improvement phase. Mr. Schepis answered that if the Board approved this application, Phase 1 would begin to immediately to install the concrete curb wheel stops to demarcate the 15 parking spaces, remove the fenced enclosure, make application to the Borough for permission to replace the curbing and any striping of Hergesell Avenue, should the Board wish. Additionally, the applicant would instruct Mr. Egarian or another professional engineer to submit the DEP application for Phase 2 paving. Board Attorney Kaczynski asked if DEP approval is required for Phase 1 and Mr. Schepis does not believe so since it is an existing condition. Mr. DeMarco added that inclement weather may

delay the Phase 2 paving. Secretary Panny believes that DEP approval would be required before any changes to the property. Board Attorney Kaczynski inquired if the applicant would agree that the Phase 2 project is required as a condition of approval. Mr. Schepis agreed saying that as long as the DEP approves the plan, Phase 2 development is not optional. Board Attorney Kaczynski explained that if Phase 2 does not receive DEP approval, then Phase 1 would be abandoned. Mr. Schepis countered that should the DEP not approve the Phase 2 paving, the Phase 1 improvements would remain as proposed. Both he and Mr. Egarian are confident about DEP approval. He indicated that the DEP may require some vegetation planting. Mr. Schepis continued by suggesting that the applicant return to the Board should the DEP does not approve Phase 2.

Chairman Lichtenberger invited the public to ask questions of Mr. DeMarco.

Rick DeHeer of 18 Hammel Place asked what would happen if the DEP does require approval for the Phase 1 project. Mr. Schepis considers the Phase 1 project as an improvement of the property. Since the applicant would be required to come before the Board if Phase 2 is not approved by the DEP, the Board can address any issues with the property at that time. He is confident that the DEP will approve the Phase 2 paving. Board Attorney Kaczynski inquired if the applicant comes before the Board again because the DEP did not approve Phase 2, would the Board then have the opportunity to approve or deny the Phase 1 project. Mr. Schepis replied that if the applicant comes before the Board again, the Board could impose different conditions or require additional site improvements. Chairman Lichtenberger is uncomfortable with proceeding without DEP approval. In addition, he would like Board Planner Michael Kauker to review the application. As such, he would recommend adjourning the hearing in order to give the applicant time to contact the DEP and Board Planner Kauker time to provide a report. Mr. Schepis agreed to adjourning the hearing and promised to have a pre-application meeting with the DEP. He offered to send Board Planner Kauker a package of all application materials. The Board agreed to adjourn the hearing to the 12/7/17 meeting without need for additional notice. The applicant's planner will present at the 12/7/17 hearing.

A short recess was taken at 8:50pm. The meeting resumed at 8:56pm with all members present.

Board Engineer Gleassey left the meeting at 8:57pm and Councilman DeHeer rejoined the dais.

Closed Session

Councilman Rick DeHeer made a motion to go into Closed Session. Chairman Frank Lichtenberger seconded the motion. All eligible members present voted in favor of the motion.

BOROUGH OF MAYWOOD PLANNING BOARD Closed Session Resolution # 2017-13

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

Date of Passage: 11/2/17 Time: 8:57pm

Chairman Lichtenberger made a motion to return to the regular order of business. Secretary Panny seconded the motion. All eligible members present voted in favor of the motion.

Informal Hearing None

Old Business None

New Business

- 2018 Public Meeting Dates

Chairman Lichtenberger noted that the schedule is the same as previous years with meetings scheduled on the first and fourth Thursday of the month. Board Recording Secretary Grunstra pointed out that there is no meeting on the first Thursday in January in order to give the Mayor and Council time to reorganize. As such, the first 2018 public meeting of the Maywood Planning Board will be 1/25/18. The last public meeting of 2018 will be 12/6/18. The meeting between Christmas and New Year's was not scheduled since many members take vacations. Chairman Lichtenberger made a motion to approve the 2018 Public Meeting Dates. Harry Hillenius seconded the motion. All members present voted in favor of the motion.

- Cancel 12/28/17 Meeting

Chairman Lichtenberger made a motion to cancel the 12/28/17 meeting. Harry Hillenius seconded the motion. All members present voted in favor of the motion.

Open Meeting to the Public None

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Gary Neumann seconded the motion. The meeting was adjourned at 9:17pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary