

**MAYWOOD PLANNING BOARD
MINUTES
December 3, 2020**

A regular meeting of the Maywood Planning Board was held on Thursday, December 3, 2020 via the “Zoom” online meeting platform 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. On October 21, 2020, adequate notice of this meeting being conducted via the “Zoom” online meeting platform in lieu of its in-person meeting which was previously advertised in the Council Chambers of the Maywood Municipal Building was posted at the entrance to the Maywood Municipal Building, filed with the Borough Clerk, sent to the Mayor and Council, Borough Administrator, Borough Attorney and Board Attorney, forwarded to the Our Town and The Record newspapers for publication, posted on the Borough website and distributed to all persons, if any, requesting copies of the same pursuant to the Open Public Meetings Act. This meeting is being recorded 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

Call to Order

The meeting was called to order at 7:36pm with the following members present: Chairman Frank Lichtenberger, Vice Chairperson Charlotte Panny, Mayor Richard Bolan, Councilperson Ryan Ullman, Gary Neumann, Paul Kuhn, John Montel, Harry Hillenius, Rick DeHeer, Peter Cicarelli, Secretary Anthony Klymenko and John Gargagliano. Board Attorney Kara Kaczynski, Board Engineer Gregory Polyniak and Board Planner Michael Kauker were also present.

Approval of Minutes

Rick DeHeer made a motion to accept the minutes from the October 22, 2020 meeting. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Paul Kuhn made a motion to accept the minutes from the November 5, 2020 meeting. Vice Chairperson 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. Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

- 11/9/20 letter from Board Recording Secretary Tara Grunstra Re: NYCE Tattoos 946 Spring Valley Road Completeness Materials Deadline

- 11/19/20 letter and exhibit from Joseph R. Torre Re: Ultimate Force, LLC, et al. v. Zoning/Planning Board of Borough of Maywood, et als.
- 11/20/20 letter from Hal Simoff Re: GFR Maywood, LLC 18 West Passaic Street & 521 Maywood Avenue Traffic Assessment
- 11/24/20 letter from Board Engineer Gregory J. Polyniak Re: GFR Maywood, LLC 18 West Passaic Street & 521 Maywood Avenue Completeness, Planning and Engineering Review
- 11/24/20 letter from Board Engineer Gregory J. Polyniak Re: NYCE Tattoos 946 Spring Valley Road Engineering Review
- 12/2/20 NJDEP Flood Hazard Area Individual Permit Approval for Empire Real Estate Holdings

Resolution

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

Chairman Frank Lichtenberger stated that the applicant has not replenished the requested escrow. Board Recording Secretary Tara Grunstra explained that the replenishment for existing and anticipated Board professionals’ billing was requested in October prior to the hearing. A portion of the escrow replenishment was received but not enough to cover the pending bills. Board Attorney Kara Kaczynski recommended that the Board memorialize the resolution tonight but notify the applicant’s attorney that the resolution will not be signed nor notice published until the escrow request is satisfied. John Gargagliano made a motion to approve the resolution and Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Board Attorney Kaczynski suggested that the Board could amend the agenda to add a completeness hearing for the NYCE Tattoos variance and site plan applications. Board Engineer Greg Polyniak has reviewed the submission and has issued a review letter. He recommended that the Board deem the application complete.

Rick DeHeer made a motion to amend the agenda. Paul Kuhn seconded the motion. All eligible members present voted in favor of the motion.

Completeness Hearing

NYCE Tattoos
 946 Spring Valley Road
 Block 2, Lot 5
Calendar #2020-01
Variance & Site Plan Applications

Paul Kuhn made a motion to deem the application complete based upon the recommendation of Board Engineer Polyniak. Vice Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

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 informed the Board and the public present that there was a miscommunication regarding the hearing date and the hearing was adjourned to the 1/28/21 meeting. She advised that the Board will re-notice to avoid any confusion.

Application Hearing**GFR Maywood, LLC**

18 West Passaic Street & 521 Maywood Avenue
Block 96, Lots 7 & 8

Calendar #2020-13**Variance & Site Plan Applications**

Kevin Kelly of Kelly, Kelly, Marotta & Tuchman represents the applicant, GFR Maywood, LLC. He introduced his witnesses as Robert Zampolin (architect), Calisto Bertin (professional engineer), Hal Simoff (traffic engineer) and Brigitte Bogart (professional planner). He also introduced Robert McNerney, a principal of GFR Maywood, LLC.

Board Attorney Kaczynski reminded the Board that the applicant is seeking a D variance. As such, Mayor Richard Bolan and Councilperson Ryan Ullman will need to recuse themselves from the hearing. She added that the applicant has noticed properly so the Board has jurisdiction. Mayor Bolan and Councilperson Ullman stopped their video indicating that they were not participating in the hearing.

Mr. Kelly explained that the subject property is comprised of two irregularly shaped tax parcels on the corner of Maywood Avenue and West Passaic Street. The properties surrounding the subject location is mostly residential to the south and the west, garden apartments to the north, a public park to the northeast and a gas station to the east. The subject property is in the A-1 one-family residential zone. There is a vacant one-story building and parking lot on Lot 7. Lot 8 is vacant. He stated that the applicant is seeking to raze the existing one-story building and build 4 two-story townhouses that will each have two bedrooms with a single car garage. He listed other on-site improvements such as a driveway, curbing, sidewalks, utilities, drainage, lighting and landscaping. As they are proposing to build a townhouse in the A-1 zone, a use variance is needed. He added that two bulk variances are also required; rear yard setback (10' proposed vs. 30' minimum required) and the distance between the 2 buildings (25' proposed vs. 50' minimum required). He said that that a technical height variance regarding grade is needed as identified by Board Engineer Polyniak. There is a nonconformity regarding density in the Townhouse (TH) zone (10.5 units per acre proposed vs. 8 units per acre maximum permitted). He considered the subject property area as transitional since it transitions from residential homes to the south to garden apartments to the north. Mr. Kelly conferred with the Board Recording Secretary Tara Grunstra to mark various exhibits as they were posted to the Borough website for public review and they are:

- A-1 Calendar #2020-13 GFR Maywood, LLV Variance and Site Plan Applications and Revised Site Plan Checklist
- A-1a Site Plan Drawings Revised 11-12-2020
- A-1b Architectural Drawings Dated 11-13-2020
- A-2 Stormwater Drainage Calculations Dated 7-1-2020 Revised 11-12-2020
- A-3 Stormwater Operation and Maintenance Manual Dated 11-12-2020
- A-4 Hal Simoff Traffic Assessment Dated 11-20-2020
- A-5 Landscape Rendering Dated 11-12-2020
- A-6 Exterior Materials Samples Drawing A5 Dated 11-18-2020
- A-7 Rendering in Bar Harbor Blue
- A-8 Rendering in Granite Gray
- A-9 Rendering in Pearl

The applicant's witnesses were sworn in except Brigitte Bogart who lost connection.

Board Recording Secretary Grunstra read an emailed comment from a member of the public into the record:

To Whom It May Concern,

I am the owner of 22 West Passaic Street, Maywood. I currently live right next to the properties in question: 521 Maywood Avenue and 18 Passaic Street.

I respectfully submit my reasons for opposition to the new construction of 4 2-story townhouses:

- To begin, there is a NJ Transit bus stop that is located directly in front of the proposed new construction site (W. Passaic St. and Maywood Ave. intersection).

My concern is will this bus stop be relocated? There are traffic concerns on this already very busy intersection as is and I do not want the bus stop any closer to my property.

- Also of concern - the additional traffic congestion that will be caused by adding driveways on either extremely busy main road (Maywood Ave. or West Passaic Street). There is also a traffic light on this corner which will add to the chaos.

- The noise associated with a new construction will be an extreme distraction for children who are homeschooling due to the pandemic (my 7 year old being one) as well as a HUGE nuisance to all surrounding residents that will have to put up with the unwanted noise for an undetermined period of time.

- Another major concern - the aesthetics of our property will be greatly affected. The privacy that is currently offered by the location of our property was one of the main reasons we purchased our home. At the time that construction begins and moving forward we will lose our privacy totally.

My family and I love our home. We want to be comfortable where we live. Thank you for your time and consideration.

Respectfully,

Natalie Navarro and Bassam Ramadan

Robert Zampolin is the applicant's architect. He was qualified and accepted. He explained how he prepared plans for the applicant. Mr. Zampolin's office prepared Exhibits A-7 – A-9 renderings in various colors which he displayed. He then discussed features and exterior materials of the proposed development. He indicated that the applicant will defer to the Board

on the color selection. His office also prepared Exhibit A-1b Architectural Drawings Dated 11-13-2020. He described the floorplans of the buildings. He noted that there will be a small exterior accessed room for garbage and recycling receptacle storage to avoid the need for a dumpster enclosure. Townhouse residents would utilize curbside garbage and recycling collection. When displaying the elevations, Mr. Zampolin identified the exterior lighting by the front entrance door, above the garbage/recycling room door and, possibly, above the double windows next to the front entrance door. He then explained that they are proposing a 25' distance between the two buildings. He next displayed Exhibit A-6 Exterior Materials Samples Drawing A5 Dated 11-18-2020. He described each of the materials and the exterior location of each material. Mr. Zampolin listed his previous townhouse design projects. He stated that the materials proposed are in compliance with townhouse fire codes.

Chairman Lichtenberger invited the Board to ask questions of Mr. Zampolin. Rick DeHeer asked if the 25' distance between the two buildings has implications for emergency services. John Gargagliano has been a fulltime firefighter for 34 years and volunteer firefighter for 37 years. He advised that the fire department would use ladders to fight the fire while the trucks would remain in the roadway. He further explained that the distance between the two buildings would not be a concern. Harry Hillenius was under the impression that there were two curb cuts and driveways proposed; one from West Passaic Street and one from Maywood Avenue. Mr. Kelly explained that the plan was revised to utilize the existing curb cut based on input from Bergen County and Board professionals.

Chairman Lichtenberger then invited the public to ask questions of Mr. Zampolin. Bernadette Gooney of 476 Oak Avenue asked Mr. Zampolin to display Exhibit A1b Architectural Drawings page A4 Rear and Left Side Elevation. She confirmed that there would be 6 windows facing her backyard 10' from the property line. Mr. Kelly added that the applicant is proposing screening and the applicant's engineer, Mr. Bertin, would detail that information. Natalie Navarro and Bassam Ramadan live at 22 West Passaic Street. They had submitted the emailed comments to Board Recording Secretary Grunstra. Mr. Kelly deferred their comments to his other witnesses.

The applicant's planner, Brigette Bogart, joined the hearing and was sworn in.

The applicant's next witness was Calisto Bertin who is a professional engineer. He was qualified and accepted. He prepared Exhibit A-1a Site Plan Drawings Revised 11-12-2020. He explained how he prepared plans for the applicant. He then detailed the current conditions noting that the total lot size is 16,681 square feet size located on the corner of two county roads. He explained that the applicant is proposing to demolish the existing one-story building but keep the single driveway on West Passaic Street. He displayed Exhibit A-5 Landscape Rendering Dated 11-12-2020 prepared by Bertin Engineering. He described the subject properties and the applicant's proposed development. He detailed the proposed parking spaces including a handicapped parking space which complies with Borough code. He then displayed Exhibit A-1a Site Plan Drawings Revised 11-12-2020 prepared by Bertin Engineering. He showed the existing conditions and proposed development on the plans. There is an existing easement for the traffic light on the corner which will remain. He discussed the grading plan noting the 8' grade change from the intersection corner of the property to the opposite corner of the property. While his office tried to work with the existing grade, Board Engineer Polyniak identified that the grade in

one area would be raised by more than 1.5' which triggered a variance. Due to the increase in impervious coverage, the applicant is proposing two underground stormwater galleys in between the two buildings. He noted that test pits will be utilized. The proposed impervious coverage is in compliance with the Borough code.

Mr. Bertin identified a sanitary sewer easement in the westernmost corner of the property. They plan to tie into the existing sewer line which they feel will be sufficient for the proposed development. He identified the other utility connections and the anticipated locations of the proposed air conditioning units. He explained that the air conditioning units can be screened with landscaping, if needed. Mr. Bertin then detailed the landscaping and lighting plan. He noted that the landscaping should provide screening of the first floor windows. The proposed area lights are LED, on a timer and can be adjusted to limit spillage. He displayed Exhibit A-5 Landscape Rendering Dated 11-12-2020 and discussed the proposed plantings. He anticipated that the planting will mature in 3-5 years. In terms of site access, Mr. Bertin explained that the driveway is large enough for a moving truck and delivery vans to maneuver. He said that they had considered rotating the building facing Maywood Avenue to face West Passaic Street but decided against doing so because the vehicle back-up distance was insufficient. Additionally, they found the current configuration aesthetically pleasing. Chairman Lichtenberger feels that the building rotation that was considered would eliminate the need for so much asphalt which he feels would be an improvement. Mr. Kelly answered that they would consider that change. Board Planner Michael Kauker suggested to narrow the driveway but prefers the proposed building orientation. Board Engineer Polyniak cited the Residential Site Improvement Standards (RSIS) that would require a 20' drive aisle and anything less would require a waiver. He then suggested relocating the visitor and ADA parking spaces to between the location two buildings. Mr. Bertin believes that the area between the two buildings would need to be widened to accommodate the visitor and ADA parking spaces. Chairman Lichtenberger feels rotating the building facing Maywood Avenue would allow for more green space. Mr. Kelly explained that the applicant wanted the buildings to keep a more residential look but offered to confer with the applicant. Mr. Bertin believes that the overhead view emphasizes the amount of macadam but the amount would not be so obvious from the street view.

Mr. Bertin has reviewed Board Engineer Polyniak's review revised 11-24-2020. Mr. Kelly asked if all of the comments have been addressed and Mr. Bertin answered that most of the comments have been addressed. Any other items were addressed during testimony or will be complied with. He specified that Item 15 regarding replacing all curbs and sidewalks along the property frontage may not apply since he believes that they are in good condition. All other requests will be honored by the applicant.

Chairman Lichtenberger invited the Board to ask questions of Mr. Bertin. Rick DeHeer asked about restricting right turns from West Passaic Street entering the development and right turns to West Passaic Street exiting the development for traffic safety. Mr. Bertin asked to defer the question to Mr. Simoff as he is the traffic engineer. Mr. DeHeer then asked if the curbing is a sufficient height and Mr. Bertin answered that the curbing looked to be in good condition but would accept Board Engineer Polyniak's assessment. Harry Hillenius asked if the townhouse units would be owned by one entity and rented individually or if they would be owned individually. Mr. Kelly replied that they will be owned by one entity and rented individually.

Chairman Lichtenberger repeated Mr. DeHeer's concerns regarding restricting turns in and out to right turns only. Mr. Kelly is not opposed to the idea but would prefer to wait for Mr. Simoff's testimony. Board Engineer Polyniak agreed that the applicant has addressed most of his comments from Board Engineer Polyniak's review revised 11-24-2020. He concurs with Mr. DeHeer and Chairman Lichtenberger that the entry and exit should be right turn only. He has concerns about light spillage onto adjoining properties and asked if the applicant would agree to perform an analysis within 3 months of the project's completion. He also asked if the lighting plan could be revised should the lighting impact the adjoining properties. Mr. Kelly agreed to that condition.

Board Attorney Kaczynski would like to mark the Board's exhibits:

- P-1 Board Engineer Polyniak's Review Revised 11-24-2020
- P-2 Board Planner Kauker's Review Dated 10-20-2020

She asked how the existing sewer line was determined as sufficient and Mr. Bertin answered that pipe capacity was determined as sufficient. Board Attorney Kaczynski asked about the height of the trees to be planted along Maywood Avenue. Mr. Bertin cited site plan page C2.4 Landscape and Lighting Plan, the trees in question will be 8-10' tall when planted and a mature height of 30-40'. Board Attorney Kaczynski confirmed that trash and recycling collection is curbside. Asked by Mr. Kelly, Mr. Bertin summarized Exhibits A-2 Stormwater Drainage Calculations Dated 7-1-2020 Revised 11-12-2020 and A-3 Stormwater Operation and Maintenance Manual Dated 11-12-2020.

Chairman Lichtenberger invited the public to ask questions of Mr. Bertin. Bernadette Gooney of 476 Oak Avenue confirmed with Mr. Bertin that the 30" concrete slab for the air conditioning unit would mean that the air conditioning unit would be 7.5' from the property line for units 3 and 4. Mr. Bertin will look into revising the air conditioning unit location. Natalie Navarro and Bassam Ramadan live at 22 West Passaic Street. Their property has the sewer easement. Ms. Navarro asked Mr. Bertin if he anticipates any disturbance of her property related to the sewer easement. Mr. Bertin explained that the applicant is not permitted to disturb Ms. Navarro and Mr. Ramadan's property. Ms. Navarro confirmed that the bus stop in front of the subject property would remain.

The applicant's next witness was Hal Simoff who is a traffic engineer. He was qualified and accepted. Mr. Simoff explained how he prepared for this application and hearing. He stated that he recommended turn restrictions of right turn in and right turn out. He believes that this project will contribute 2-3 cars per hour to the traffic flow when the roadway carries approximately 1,000 cars an hour at peak hours. He considers this increase to be negligible. He added that the existing driveway is located at the furthest location from the intersection and preserves the bus stop existing location. Regarding the corner, he stated that the sight distance requirements do not apply because there is a traffic signal that controls movements. The sight distance rules apply when there is a stop sign. As such, the proposed landscaping is acceptable.

Chairman Lichtenberger invited the Board to ask questions of Mr. Simoff. Chairman Lichtenberger was pleased that Mr. Simoff recommended the turn restrictions. Mr. Kelly offered to give the Borough Title 39 enforcement powers on private property as a condition of approval.

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

The applicant's next witness was Brigette Bogart who is a professional planner. She was qualified and accepted. Ms. Bogart explained how she prepared for this application and hearing. She then described the current conditions. She stated that the applicant is seeking a D(1) use variance as well as several minor bulk variances. Ms. Bogart then described the uses of the surrounding properties several of which are considered more intense than the proposed use. The subject property transitions from single family residential to high density garden apartments. She noted that existing one-story building was used as an office which is nonconforming use. These characteristics support the positive criteria under the Medici standard. She considers the proposed use as particularly well suited for the subject property. In terms of the negative criteria under the Medici standard, she stated that proposed development has no adverse effect on the Borough master plan or zoning ordinance. The property's current condition is a derelict building on an underutilized lot. The proposed use is bringing the property closer to conformity with the zoning requirements. According to the 2003 master plan and 2009 reexamination, she explained that one of the goals is to improve this area. In terms of density, the garden apartment complex opposite the subject property has 64 apartments on 2 acres translating to 32 units per acre. The proposed development has a much lower density of 10.5 units per acre. 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 the public to ask questions of Ms. Bogart but no one came forward.

The hearing was adjourned to the next meeting on 1/28/21. All of the applicant's professionals will be available at that meeting. Board Attorney Kaczynski announced to the public that the hearing was adjourned to 1/28/21 with no need for additional notice. Mr. Kelly stated that the applicant is extending time for the Board to act to 1/28/21.

Informal Hearing None

Closed Session None

Old Business None

New Business None

Open Meeting to the Public

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Rick DeHeer seconded the motion. All members present voted in favor of the motion. The meeting was adjourned at 10:40pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary