

**MAYWOOD PLANNING BOARD**  
**MINUTES**  
October 1, 2015

A regular meeting of the Maywood Planning Board was held on Thursday, October 1, 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 7:34pm with the following members present: Chairman Frank Lichtenberger, Vice Chairman Paul Kuhn, Secretary Charlotte Panny, Councilman Rick DeHeer, John Montel, Harry Hillenius and John McManus (arrived at 8:15pm). Also present were Zoning Officer James Mazzer and Board Attorney Kara Kaczynski. Arthur Señor from Remington Vernick & Arango Engineers represented Board Engineer Tom Lemanowicz and Board Planner Michael Kauker arrived at 8pm.

**Approval of Minutes:** Vice Chairman Paul Kuhn made a motion to accept the minutes from the September 24, 2015 meeting. Secretary Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

**Bills:** None

**Correspondence:**

- 1) 9/28/15 letter from Sheri K. Siegelbaum Re: Board Attorney Approval
- 2) 9/28/15 email from Richard J. Laiks Re: 125 Essex Street Easements
- 3) 9/29/15 Bergen County Site Plan Approval Application Approved in 1992 Re: 125 Essex Street
- 4) 9/29/15 email from Richard J. Laiks to BCUA Re: 125 Essex Street Sewer Flow Meter

**Resolutions:** None

**Hearing:** **Florence Pizzeria**  
105 Essex Street  
Block 131, Lot 9  
**Calendar #2015-12**  
**Sign Application**

Fermi Daci was sworn in. He is the proprietor of Florence Pizzeria at 105 Essex Street. He would like to replace the sign face in an existing illuminated wall sign measuring nearly 28 square feet. Zoning Officer James Mazzer was sworn in. He explained that the height of the building is 16' and the width is 21', 10% of the façade is 33.6 square feet. The proposed signage falls within the allowance and is 3 colors. Board Attorney Kara Kaczynski confirmed that the sign would be illuminated between 4pm and 12am. Chairman Frank Lichtenberger explained that Mr. Daci should not install any window signs without approval of Zoning Officer Mazzer. Secretary Panny asked for clarification if the "Open" sign mentioned by Mr. Daci would be flashing. He explained that the "Open" sign is illuminated and could flash but he would select that it would be remain static. Harry Hillenius advised Mr. Daci that he could have signage up to 10% of the façade.

Harry Hillenius made the motion that the application be approved as presented and Secretary Panny seconded the motion. All members present voted in favor of the motion.

**125 Essex Street LLC/Dollar Tree**  
125 Essex Street  
Block 131, Lot 5  
**Calendar #2015-10**  
**Variance & Sign Applications**

Richard J. Laiks of Heller & Laiks here on behalf of 125 Essex Street LLC and the owner John J. Brunetti. The applicant is seeking a use variance and the property is located in the limited light industrial zone. A lease with retailer Dollar Tree is pending Planning Board approval.

Mr. Laiks summarized that several items were determined over the course of the previous week:

- The BCUA manhole cover was for the Maywood sewer flow meter
- The easements are in favor of the BCUA to maintain the sewer flow meter and the sewer lines on the property
- Currently in negotiation with BCUA to place the trash enclosure in front of the manhole cover
  - If approval is not granted, an alternative location for the trash enclosure is proposed
- A copy of the Bergen County Department of Planning and Engineering approved 1992 application was acquired
- In terms of a landscaping plan, the applicant is willing to follow the Board's direction
  - Chairman Lichtenberger asked that it just be cleaned up and maintain whatever is planted
  - Board Attorney Kaczynski noted that the approved 1992 Bergen County Department of Planning and Engineering plan had a height restriction of 30" or less for any plantings along the access driveway
    - Chairman Lichtenberger felt that plantings along the access driveway was a good idea and would be appreciated by the tenants of the Hackensack Gardens apartments

- The signage company is in attendance and any questions about signage will be answered in testimony
  - They disagree with Board Engineer Tom Lemanowicz that the lettering change on the freestanding sign qualifies as an alteration. They believe that it is a pre-existing sign and the non-conformity will not be exacerbated
    - Chairman Lichtenberger explained that the sign is 27' high when the code allows for 24' maximum or no higher than the roofline (22')
    - Board Attorney Kaczynski cited §209-40 (S) preexisting nonconforming signs “shall not be altered, enlarged, extended or relocated unless such action changes a nonconforming into a conforming sign.” She concurs with Board Engineer Tom Lemanowicz that changing the lettering is an alteration and would require a variance

Arthur Señor from Remington Vernick & Arango Engineers represented Board Engineer Tom Lemanowicz and listed the remaining outstanding issues:

- Lighting
- Signage
  - Freestanding sign height
  - 2 wall signs vs. 1 allowed in the code
  - Total proposed signage exceeds 10% of façade allowance

Several members of the board visited the property during the last week in order to assess the lighting. Vice Chairman Kuhn expressed concern that the applicant does not have much control over lighting on PSE&G poles. He suggested angling the light that borders Essex Street down to minimize glare into Essex Street traffic. Chairman Lichtenberger also visited the property and observed most of the lights were directed at the building. He wants to make sure that the tenants of the Hackensack Gardens apartments won't be disturbed by the lighting. Like Vice Chairman Kuhn, he believes that the 2 lights bordering Essex Street should be adjusted downward.

Mr. Laiks informed the Board that OSHA requires a minimum lighting level for employees exiting the building at night. There are also liability issues and counsel for the tenant Dollar Tree was in attendance. Matthew Tamasco from Schnader Harrison Segal & Lewis was sworn in. He explained that the LED lights that were installed seem excessively bright in comparison to the older halogen lamps that surround the property. Dollar Tree only wishes to satisfy the OSHA requirements. Mr. Tamasco would not object to the light bordering Essex Street being angled down further to reduce glare. Most members of the Board felt that the new lights were an improvement over what was in place previously.

Mr. Señor believes that the applicant and tenant can exert some influence over PSE&G and request that PSE&G adjust the lighting since it is site specific and not intended to light the roadway. He noted that the proposed wall mounted lights will add additional lighting to the parking lot but cannot be observed until they are installed. He recommends that a comprehensive lighting plan that shows both the existing PSE&G pole mounted lights and the proposed wall mounted lights be submitted as a condition of approval.

Sean Savage from Matrix New World was sworn in. He explained that they propose replacing the 8 (eight) existing lights that were mounted on the wall facing Hackensack. The previous lighting has been removed and the new lights will be installed in the same locations. These wall lights will be facing out and down to illuminate the sidewalk.

Mr. Señor walked the site prior to the meeting and measured the lighting. The light levels ranged from 3 foot-candles to 9 foot-candles across the entire parking lot. He clarified the 2 foot-candles would allow for easy maneuvering and 5 foot-candles enables facial recognition. Mr. Laiks interjected that as you move away from the poles, the light levels dissipate. Mr. Savage expanded on this explaining that the highest light levels would be directly beneath the poles. If the lights bordering Essex Street are angled downward, the light intensity will increase directly beneath the light but will decrease when viewed from a distance.

Board Attorney Kaczynski asked if the pole mounted lights are leased and paid for by the applicant. Mr. Savage said that the poles are outside the property line and are on bordering properties. Mr. Laiks noted that there haven't been any complaints by the neighbors since the lights have been installed. Mr. Savage explained that the proposed wall mounted lights illuminate the sidewalk and the pole mounted lights illuminate the parking lot.

Mr. Señor asked about the timing of the lighting being dusk to dawn and if they would be on outside the hours of operation (M-Sa 9am-9pm & Su 9am-8pm). Mr. Tamasco addressed this by explaining that when the store closes, the interior lights and the exterior wall mounted illumination are shut off. Dollar Tree has the ability to control the lighting from their national home office. Zoning Officer Mazzer noted that the ordinance requires lighting to be shut off when then business is closed. He believes that the existing lighting improves the property. Mr. Tamasco said that Dollar Tree would be willing to discuss adjusting the lighting with PSE&G. Their main concern is to maintain 5 foot-candles for facial recognition and safety. In terms of personal injury litigation, 5 foot-candles is the minimum light level to avoid liability judgments. Vice Chairman Kuhn suggested that the applicant request PSE&G adjust the lighting bordering Essex Street as a condition of application approval and the applicant agreed to do so.

John McManus arrived at 8:15pm.

Timothy Olsen from Forman Signs was sworn in. He began by explaining the proposed signage:

- Wall sign of illuminated channel letters
  - Low voltage LED
  - Acrylic face
  - 3' high by 32' wide = 96 square feet where 138 square feet is allowed
  - The green bars on each side of the letters will be painted on
  - Zoning Officer Mazzer agreed that it is to code
- Mapes vinyl canopy
  - Aluminum frame
  - "Entrance" printed on the valance
  - Lettering is 1' high x 8' wide = 8 square feet where 295 square feet is allowed
  - The awning will not go past the sidewalk

There was a question of the entrance locations and Mr. Savage explained that the front and side entrance will remain. They will feed into one foyer entering the store together. Mr. Señor asked that the awning be included on the site plans and the applicant agreed to do so.

Mr. Olsen continued outlining the proposed signage:

- Replacing the acrylic face of the existing freestanding illuminated sign
  - “Dollar Tree” lettering in white on a green background – no logo
    - Harry Hillenius preferred the option with the white background and the tree logo
  - 5’ high x 7.625’ wide = 38.125 square feet where 18 square feet is allowed
  - Pylon is 27’ high vs. the ordinance of 24’ maximum or no higher than the roofline (22’)
    - Board Attorney Kaczynski explained that this approval would require a variance
      - Additionally, the square footage exceeds the allowable which would also require a variance
      - A variance would also be needed for the number of wall signs as 2 are proposed (illuminated “Dollar Tree” and canopy) vs. 1 allowed
      - Application included sign variances
    - Mr. Señor believes that the sign reaching the building height of 22’ would be more attractive for the streetscapes

As stated earlier by Mr. Laiks, the applicant is currently in negotiation with BCUA to place the trash enclosure in front of the manhole cover. If approval is not granted, an alternative location for the trash enclosure is proposed. The BCUA is requesting access to the property in order to read the sewer meter. Secretary Panny asked about the left turn restriction exiting the parking lot which was discussed at the previous meeting. Mr. Laiks said that Bergen County does not require it as Essex Street is a county road.

The application was open to the public and there was no one came forward.

Vice Chairman Kuhn had several concerns. He wanted to remind the applicant that the Fire Official Tom Tuttle requested that the cardboard baler have its own fire suppression system. Mr. Tamasco asked for clarification. Mr. Savage consulted the plans and confirmed that sprinklers will be placed directly above where the baler’s proposed placement. Vice Chairman Kuhn asked about the timing of trash/recycling pick up and delivers. He would like to set some parameters. Mr. Tamasco believes that truck traffic will be typically between 7am-9am. Deliveries are only made when employees are present. Cardboard pick up is done during business hours.

Councilman DeHeer asked about the concrete pad for the trash enclosure. Mr. Laiks replied that the concrete pad is not required by code so they plan to place the dumpster on the parking lot macadam and will repair it as necessary. Mr. Savage explained that the hauler lifts the dumpster without rolling it out of the enclosure. The dumpster will not have wheels.

Mr. Savage presented a plan with an alternative location of the trash enclosure. The alternative location is on the northwest corner of the building next to the 3 condensate units. The parking stall that it would take would be added back by the original location in the easement. The alternative trash enclosure plan is subject to the Board Engineer's review. The plan was marked as Exhibit A-2 Trash Enclosure by Matrix New World dated 9/30/15.

John McManus would like the resolution to include a Knox Box for the Fire Department and Mr. Laiks agreed.

Board Attorney Kaczynski added that the Board would like a comprehensive lighting plan with both the wall mounted and pole mounted lights as a resolution condition.

Board Attorney Kaczynski listed all of the items below as conditions for application approval (site plan application, variance application and sign application):

1. Eliminate 2 parking spaces at the rear of the property to allow easier access for fire trucks (42 spots remain and 42 spots are required)
2. Submit corrected architectural plans with creation date of 5/14/15 and revision date of 5/28/15
3. Maintain the existing fire suppression systems both above and below the drop ceiling
4. Ensure that the suppression system is directly above the baler
5. Retain the existing Siamese connection and Knox Box
6. Incorporate all representation by the applicant's engineer with regard to the technical comments of the Board Engineer
7. All conditions of the 1992 Bergen County Planning Board approval would remain and carry over to this application
8. Request that PSE&G adjust the pole mounted light bordering Essex Street
9. Work with PSE&G to address any complaints if they arise in the future
10. Add signage to the site plan
11. If the BCUA denies the easement access request for the trash enclosure, the alternative location plan (Exhibit A-2) should be presented to the Board Engineer for final review and wouldn't need to be brought before the Board again
12. Submit a comprehensive lighting plan with both the wall mounted and pole mounted lights with foot-candle levels
13. Follow the Borough ordinance that restricts truck traffic to after 7am (deliveries and card board pick up times are when employees are present)

Board Attorney Kaczynski listed the variances required for signage:

- Pylon is 27' high vs. the ordinance of 24' maximum or no higher than the roofline (22')
- The square footage of the freestanding sign exceeds the allowable
- 2 wall signs are proposed (illuminated "Dollar Tree" and canopy) vs. 1 allowed

Once it was determined that the existing sign could not be changed and an entirely new sign would need to be installed, the Board agreed to grant the variance. The other 2 variances are also included.

Vice Chairman Kuhn made the motion that the application be approved with the above conditions and Harry Hillenius seconded the motion. All members present voted in favor of the motion.

**Informal Hearing:** None

**Old Business:**

1. Board Attorney Kaczynski spoke to Timothy Middleton from the Port Authority about their 8/4/15 Airport Noise Study letter
  - a. Port Authority is having a public meeting about Teterboro Airport on Thursday, 10/15 @ 6-8pm in the Hasbrouck Height Holiday Inn
  - b. The public meeting about Newark Airport on Wednesday, 10/14 in the Newark Airport Marriot (does not apply to Maywood)
  - c. Published in local newspapers
2. Work Session #1 for Kauker & Kauker LLC Housing Element and Fair Share Plan (HEFSP)
  - a. Mr. Kauker is coordinating with Patrick J. McNamara of Scarinci Hollenbeck on this project
    - i. The Declaratory Action and Motion was submitted and approved by Judge Toskos in which the Borough has 5 months immunity to prepare and deliver a Housing Element and Fair Share Plan
    - ii. The start date of the 5 month period is the date of the filing (7/8/15) meaning the plan must be submitted to the court by 12/8/15
    - iii. The Planning Board Public Hearing would need to be in November
    - iv. The draft HEFSP will be delivered to the Board by the end of October
  - b. Dr. Robert Burchell, Rutgers University professor and COAH expert has fallen ill and will not continue working. The municipal consortium that hired him hired Econsult to replace Dr. Burchell
    - i. Dr. Burchell distributed a comprehensive draft report on 8/15/15 with the latest fare share numbers
    - ii. Econsult will validate and possibly adjust this report to reflect their own findings
      1. Given the change in leadership, Econsult may request additional time for their report
      2. Until he hears differently, Mr. Kauker will follow the 12/8/15 deadline
  - c. Fair Share Housing Center (FSHC) is an advocacy group that monitors and enforces the Fair Housing Act
    - i. FSHC compiled their own fair share numbers which were often much higher than what was determined by COAH
    - ii. FSHC attends hearings in communities that they feel are not following the Fair Housing Act (FHA)
  - d. A Fair Share Plan describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to address a municipality's rehabilitation share, Rounds 1 & 2 obligation and Fair Share Round 3 obligation

- i. Mr. Kauker detailed the contents of a Fair Share Plan
- e. Based on Dr. Burchell's 8/15/15 draft report, the rehabilitation obligation for the 10 year period of 2015-2025 is 24 units
  - i. This is based on the age of the homes in the municipality
  - ii. If 24 units are confirmed as requiring rehabilitation, the Borough is obligated to fund \$240,000 in rehabilitation programs
    - 1. COAH standard is \$10,000 minimum per rehabilitation unit
    - 2. COAH allows a windshield study to be conducted by the Zoning Officer to indicate the need for rehabilitation based on visual observation
    - 3. 1 or 2 family homes are the basis for rehabilitation, not multi-unit dwellings
- f. Also using Dr. Burchell's 8/15/15 draft report:
  - i. 36 units were obligated during the 13 year period of 1987-1999
  - ii. 6 units were obligated during the 6 year period of 1999-2015
  - iii. Lydecker Manor's 136 Low and Moderate Income Senior Housing Units (federally subsidized under the Section 202 Senior Housing Program) count towards Maywood's fair share units
- g. Dr. Burchell's 8/15/15 draft report identified the Round 3 obligation:
  - i. Low & Moderate Income Households – 40
  - ii. Adjusted Fair Share of Projected Need – 18
  - iii. Development Capacity (DU) – 124
    - 1. Introduced this component in Round 3
    - 2. Based on developable land
    - 3. This means that there is enough developable land in the Borough to satisfy the 18 unit obligation
      - a. Therefore, we would not apply the vacant land adjustment
- h. Compliance requires:
  - i. 18 new low and moderate income units
    - 1. 25% of these units can be existing senior housing @ Lydecker Manor = 4 units
    - 2. 4 existing group homes in Maywood
      - a. Group home unit of credit for low and moderate income standards is the number of bedrooms
      - b. The 4 group homes have a total of 19 bedrooms
    - 3. There is a requirement that 50% of the low and moderate income unit obligation must be for families = 9 units
      - a. Zone potentially available sites for inclusionary housing
        - i. Development must be 25 units and 20% or 5 units would be low and moderate income housing
        - ii. Density of 8 units per acre is acceptable to COAH
        - iii. 3 acre property would be appropriate
          - 1. Maine Evergreen property would fit this criteria



4. Patrick McNamara believes that an umbrella overlay zone may be needed
  - a. An ordinance that would require any additional multi-family residential development zoned or approved during the next 10 years be required to provide 10% of units as low and moderate income
- ii. 24 rehabilitation units
  1. Issue a development fee ordinance assessed to commercial new construction of 2.5% of the sale value
    - a. This would fund the \$10,000 per rehabilitation unit grant
      - i. Mr. Kauker does not recommend implementing this for residential development
    - b. Borough may need to issue a bond anticipation note to ensure that the financial obligation can be met
  2. Homeowners must volunteer for the program and it requires a low and moderate income deed restriction for a set number of years and that disincentive means low participation levels
- i. Mr. Kauker will deliver a draft HEFSP by late October
- j. Requires 10 days for public notice of meeting
- k. Secretary Panny asked about the vacant land exemption and Mr. Kauker said that he is considering that, but cited Maine Evergreen as developable property
  - i. Chairman Lichtenberger mentioned that there is a undeveloped property on Hunter Avenue and is zoned for townhouse use

**New Business:**

**Open to the Public:** None

**Adjournment:** A motion to adjourn was made by Harry Hillenius. Vice Chairman Kuhn seconded the motion. The meeting was adjourned at 9:52pm.

Respectfully submitted,

Tara Grunstra  
Planning Board Recording Secretary