

**MAYWOOD PLANNING BOARD**  
**MINUTES**  
**March 2, 2017**

A regular meeting of the Maywood Planning Board was held on Thursday, March 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 7:28pm with the following members present: Chairman Frank Lichtenberger, Secretary Charlotte Panny, Councilman Rick DeHeer, Gary Neumann, John Montel, Harry Hillenius, John McManus and Anthony Klymenko. Board Attorney Kara Kaczynski was also present.

**Approval of Minutes**

Harry Hillenius made a motion to accept the minutes from the February 23, 2017 meeting. Councilman Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

**Bills**

Secretary Charlotte Panny made a motion to accept payment of the bills. Gary Neumann seconded the motion. All members present voted in favor of the motion.

**Correspondence**

- 3/2/17 letter from Allyson M. Kasetta of Connell Foley Re: Maywood Joint Venture 29 Essex Street Resolution Revisions
  - Ms. Kasetta was present and explained her client’s perspective. Maywood Joint Venture would like references to a requirement for site plan approval to be removed from the resolution. She explained that her client is anxious for Dunbar Armored to occupy the property and feels that site plan approval will delay the occupation. In the letter, she requests that conditions F, G and H also be eliminated.
    - Plans will be submitted with the construction permits and Construction Official James Mazzer will determine if site plan approval by the Planning Board is required.
  - Chairman Frank Lichtenberger noted that the Board has been responsive to the applicant and has not caused unnecessary delays. Mr. Kasetta agreed that the Board has accommodated the applicant.

- He added that the expectation of the applicant returning for site plan approval influenced his decision.
- Board Attorney Kara Kaczynski asked if the plan that was presented would need to be changed for site plan approval and Ms. Kasetta answered that she did not think there would be any changes from what was presented.
  - She added that if the tenant would like to install a 10' fence, Dunbar Armored would submit a variance application.
- Board Attorney Kaczynski believes that the language of the ordinance seems to require site plan approval in all instances including a minor site plan. She noted that the applicant represented in testimony that they would return for site plan approval.
- Councilman DeHeer stated that Condition F requiring the applicant to utilize only diesel vehicles influenced his decision to grant approval. Board Attorney Kaczynski clarified that the applicant testified that that the armored cars could be restricted to diesel only.
  - Chairman Lichtenberger noted that diesel only vehicles are not subject to International Fire Code (IFC) 2006 code which specifies that the batteries of all the cars must be disconnected and the cars cannot have more than 5 gallons of gas in the tanks.
- Councilman DeHeer maintained that Condition G requiring a Know Box system was agreed to during the applicant's testimony.
  - Chairman Lichtenberger added that Condition H requiring the armored car weight at the site plan approval hearing should not be eliminated.
- Board Attorney Kaczynski cited Borough Code:
  - §209-59 Preliminary Determination. All applications for a minor site plan shall be referred to the Planning Board for a preliminary determination as to whether such application conforms to the definition of minor site plan.
  - §209-44 Definitions. Minor Site Plan. A development plan which requires site plan approval but which:
    - A. Does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42.
    - B. Does not involve the construction, reconstruction, enlargement or substantial structural change to any building.
    - C. Does not involve a change of use or a lawful nonconforming use.
    - D. Does not involve problems of either flooding, erosion, drainage or traffic safety with respect to ingress and egress to the lot or from the lot.
    - E. Does not involve a variance from any provision of the Zoning Ordinance.
  - §209-60 Waiver of notice and hearing requirements. The Planning Board may waive notice and public hearing for an application for development if the Planning Board or Site Plan Subcommittee appointed by the Chairman thereof finds that the application for development conforms to the definition of minor site plan.

- Secretary Panny asked what the options were for approving the resolution that was on this meeting’s agenda and Board Attorney Kaczynski explained that there were a few options:
  - Approve the resolution as presented noting the objections of the applicant.
  - Add an amendment to the resolution indicating that site plan approval is required by the ordinance.
    - Applicant would proceed with a minor site plan application or submit the site plan with the construction permits. If denied by the Construction Official, the applicant would be required to come before the Board.
  - Table the discussion until the next meeting on 3/23/17.
- Board Attorney Kaczynski stated:
  - The applicant will apply to the Board for site plan approval and any and all variance approval deemed necessary in connection therewith.
- Ms. Kasetta believes including that including the language that “site plan approval is required by the ordinance” obligates the applicant and the Board feels site plan approval is necessary since the applicant testified that they would return.
- John McManus asked if it is a typical warehouse use to store vehicles.
  - Board Attorney Kaczynski answered that the proposed use is different than what was at this property in the past.
  - Chairman Lichtenberger added that the proposed use is different than a truck terminal/truck depot.
  - Harry Hillenius believes that the proposed use is similar to FedEx.
    - John McManus does not believe the delivery vehicles were stored inside the building for FedEx.

**Resolution**

**Maywood Joint Venture**  
 29 Essex Street  
 Block 124, Lot 5  
**Calendar #2017-01**  
**Appeal and Request for Interpretation**

Harry Hillenius made a motion to memorialize the resolution as written. Secretary Panny seconded the motion. All eligible members present voted in favor of the motion.

**Hearing**

**Mady Dental**  
 930 Spring Valley Road  
 Block 2, Lot 1  
**Calendar #2017-02**  
**Sign Application w/o Variance**

Dr. John Mady was sworn in. The applicant received approval for 2 wall signs in 2015 which were never installed. He has since hired a professional sign company (Bergen Sign Company) and had them revise the sign design, size and the location of the southern facing sign. He is proposing 2 illuminated wall signs measuring 4’ high x 10’ wide:

- Mounted on the north side of the building (facing Route 4)

- No change in location
- Mounted on the south side of the building (facing Spring Valley Avenue)
  - Moving location from stairs to left side of the building between the middle and top floor windows

There are two existing signs:

- Illuminated freestanding sign on the corner of Spring Valley Road and Spring Valley Avenue (variance resolution calendar #2010-06)
- “Dentist” metal lettering affixed to the east side of the building (facing Spring Valley Road)
  - This will be removed as a condition of approval
    - Board Attorney Kaczynski recommended applying all of the resolution #2015-13 conditions to this application

Zoning Officer Mazzer provided the building specs to the Recording Secretary. The building is 35’ high x 35’ wide which is 1,225 square feet in total. The proposed signage (40 square feet) is within the 10% allowance (122.5 square feet) for each side of the building.

Harry Hillenius made a motion to approve the application. Councilman DeHeer seconded the motion. All members present voted in favor of the motion.

**Informal Hearing**                      None

**Old Business**                         None

**New Business**

- Chairman Lichtenberger notified the Board that Board Engineer Tom Lemanowicz will be completing the Stormwater Change Report.
  - Secretary Panny believes that there will be stormwater implications for the Empire Real Estate application.
- Secretary Panny updated the Board on the number of Section 8/HUD funded units.
  - Board Planner Michael Kauker submitted an OPRA request to the Bergen County Housing Authority.
    - They reported 43 subsidized units vs. the 46 units that Secretary Panny had calculated.
      - When Board Planner Kauker asked for confirmation citing the discrepancy with the 46 unit number, he was given a revised number of 52 units.
      - They provided the 2016 number as 75 units.
  - Secretary Panny contacted Bergen County Community Action Partnership (BCCAP) again to confirm the number of Maywood homeowners that participated in the weatherization program.
    - Previously, she was told that 10 Maywood homeowners began the process but ultimately didn’t complete the program.
      - She is still waiting on an answer.

- Board Attorney Kara Kaczynski asked if Secretary Panny could get documentation from BCCAP, particularly addresses of the participants.
  - Secretary Panny is still waiting to hear back from Patrick McNamara and Board Attorney Kaczynski offered to contact him as well.
- Dunbar Homes Case Law
  - Board Attorney Kaczynski explained that there was a question as to the time of application rule vs. time of decision rule.
    - Previously an ordinance could be changed after an application was filed to support the Board's denial decision.
    - The Court decided that the ordinance is in effect at the time of the filing of the application and not at the decision time.
      - Filing an application is when the application is substantially complete.
        - The application provides enough information for the Board to review and understand what is being proposed.
  - Board Attorney Kaczynski believes that public notice should be submitted to her for review prior to publication.

**Open Meeting to the Public** None

### **Adjournment**

A motion to adjourn the meeting was made by Harry Hillenius. Ken Terzo seconded the motion. The meeting was adjourned at 8:26pm.

Respectfully submitted,

Tara Grunstra  
Planning Board Recording Secretary