

**MAYWOOD PLANNING BOARD
MINUTES
March 22, 2018**

A regular meeting of the Maywood Planning Board was held on Thursday, March 22, 2018 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, 2017. 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. 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 time.”

Flag Salute

Call to Order

The meeting was called to order at 7:32pm with the following members present: Chairman Frank Lichtenberger, Mayor’s Designee Rick DeHeer, Councilman Michael Gervino, Gary Neumann, Harry Hillenius, Anthony Klymenko and John Gargagliano. Zoning Officer James Mazzer, Board Attorney Kara Kaczynski and Board Engineer Brian Gillen were also present.

Approval of Minutes

John Gargagliano made a motion to accept the minutes from the March 1, 2018 meeting. Anthony Klymenko seconded the motion. All eligible members present voted in favor of the motion.

Bills

Gary Neumann 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

- 3/14/18 memorandum from Brough Clerk Jean M. Pelligra Re: Ordinance #3-18 Amending Chapter 209, Section 25B and Section 37.1 of the Land Use Code of the Borough of Maywood

Resolution

Jay Zee Realty Corp.
78 West Pleasant Avenue
Block 88, Lot 4.01
Calendar #2017-15
Variance & Site Plan Applications

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

Hearing #1

Maywood Karate
49 West Pleasant Avenue
Block 71, Lot 9
Calendar #2018-03
Sign Application

Mason Senak is the applicant for Maywood Karate and was sworn in. He purchased the building next door to the existing business and is planning to relocate the karate studio. He is proposing two wall signs; “Karate” in channel letters on the shingled façade and “Maywood Karate” between the shingled façade and glass door and windows. Board Attorney Kara Kaczynski explained that while the proposed signage complies with the Borough code in terms of size and colors, only one wall sign is permitted per building frontage. If he would like to have two wall signs, a variance would be required. Mr. Senak would like to confer with Zoning Officer James Mazzer, the sign maker and his business partner to determine his next steps. He would like to return to the next meeting on 4/5/18 with a revised proposal.

Hearing #2

Outfront Media
99 Essex Street
Block 125, Lot 1
Calendar #2017-14
Variance & Site Plan Applications

Since the application involves a conditional use with variance relief resulting in a D variance, Mayor’s Designee Rick DeHeer and Councilman Michael Gervino stepped down from the dais. This left five members eligible for voting where five affirmative votes are needed for approval. Given that the hearing will span several meetings, members not in attendance can review the recording and thus be eligible to vote. The attorney for the applicant, James Jaworski of Wells, Jaworski & Liebman, was agreeable with this solution. He offered to supply the Board with a written transcript of the hearing as well.

Mr. Jaworski represents Outfront Media LLC and, nominally, property owner Joseph Muscarelle Investments Inc. The property borders Route 17 South and is zoned as HDO High Density Office Zoning District. Chairman Lichtenberger confirmed that the latest site plan has a revision date of 1/11/18. Outfront Media proposes to install a billboard on the Muscarelle property. Board Attorney Kaczynski suggested that the completeness waivers be addressed prior to the hearing proceeding. According to the Board Engineer’s 1/24/18 completeness review, there were several completeness items that were outstanding. All of the items have been addressed by the applicant except for item B(9) Requires written proof of submission to any governmental agency that may have jurisdiction. Should approvals be necessary, the applicant agrees to provide proof of submission. Chairman Lichtenberger made a motion to grant the completeness waiver for B(9) and Gary Neumann seconded the motion. All members present voted in favor of the motion.

Mr. Jaworski marked Exhibit #A-1, NJDOT Office of Outdoor Advertising Services Permit for a static billboard. They are currently processing an application through the Department of Transportation for an LED billboard. The Maywood Planning Board application requests

approval for both a static billboard and an LED billboard. A condition of Board approval would be the DOT LED billboard permit approval. While the DOT static billboard permit (Exhibit A-1) shows a 5/15/18 expiration date, the required fee for extending it from 2018 to 2019 has already been paid. Mr. Jaworski distributed an exhibit list. He then provided background information on Outfront Media. The applicant wishes to secure approval for a billboard that is permitted in the HDO zone. While off-premises signage is a conditionally permitted use in the zone, the billboard that applicant is proposing deviates from the Borough code in several ways:

- Proposed height of 70' where 35' is permitted
- Setback deviations, both from Route 17 and from Essex
- Proposed size of 672 square feet where 528 square feet is permitted
- Proposed width of 48' where 44' is permitted
 - The applicant is proposing a standard billboard size which has dimensions of 14' high x 48' wide

The applicant is seeking conditional use approval with deviations and site plan approval. While the conditional use is a D variance mandating an affirmative vote of five members of the Board, it is not conventional in the circumstance of a use variance. The Medici standard does not apply to conditional use deviations; the Coventry Square vs. Westwood standard is what is applicable.

The applicant's first witness is John Antal of Outfront Media and he was sworn in. Mr. Antal is the New Jersey General Manager and he is responsible for overseeing every department in his office; sales, charting, production, operations, real estate and development, government affairs, and everything having to do with the New Jersey market. He provided background information about Outfront Media and detailed that they have more than 400,000 displays, both digital and static, across 150 markets throughout the U.S. and Canada. While being a very large national company, they are locally based in Fairfield, New Jersey. Local businesses comprise 70-75% of their revenue. In New Jersey, they have over 3,900 displays and currently operate 57 digital units.

Mr. Jaworski marked an undated Google map of 99 West Essex Street as Exhibit #A-2 which shows the current conditions. Mr. Antal pointed out on the map where the billboard is proposed to be located. He noted that it is proposed to be on the southernmost portion of the parking lot, in the axillary parking area at the furthest southern point of the parking lot. Chairman Lichtenberger confirmed that no parking spaces would be lost as there is an existing grassy area where the billboard is proposed to be installed. Mr. Antal explained that this location was chosen since it is adjacent to Route 17 which he described as having great visibility. The location provides easy access for the operations personnel since it is out in the open as opposed to woodlands. The area is zoned as a business commercial area and the billboard would not interfere with the landlord's operations as it doesn't affect the circulation or access to the property or the businesses that occurs there. Lastly, the area that is also permitted by the New Jersey Department of Transportation. Mr. Jaworski distributed a reduced version of the 2-page site plan package dated 8/15/17 with a latest revision date of 1/11/18 and marked it as Exhibit #A-3.

Mr. Jaworski asked Mr. Antal about the permitting process. Mr. Antal described how they find a location that they deem as suitable from an operational standpoint and a sales standpoint. They complete a detailed application with the Department of Transportation which includes the

proposed orientation of the roadway, height and location upon the premises where they want to locate the display. The DOT reviews the application and conducts an on-site inspection. While the applicant has approval for a static sign, they are applying for an upgrade to a digital display. He explained that the State of New Jersey regulates digital signage very strictly and have specific rules; no flashing, scrolling or motion of any kind. Ads cannot change more frequently than 8 seconds and when those changes occur, they must change in one second or less. The spacing for a digital billboard is 3,000 linear feet in either direction, along the same side of the highway, which means when you see one digital billboard, you will not see another one for an additional 3,000 feet, almost a mile difference between seeing the billboards. The DOT rules and Borough code in the HDO zone complement each other in that signs that flash or wave are not permitted.

Mr. Antal then provided some of the benefits of an LED sign over a static sign. One of the benefits to their advertisers is the ability to be flexible with the messaging that they display to their potential customers. They can put up different ads at different times of the day and he used the example of a diner promoting a lunch special from noon to 3pm, and then start promoting the dinner specials. Digital billboard can provide live scores and game-day information. Advertisers can speak to something that's current and top of mind with their potential customers. Mr. Jaworski marked Exhibit #A-4, Sample Emergency Service Package. Mr. Antal described that they partner with the local municipalities where the digital billboards are located. In the event of a serious emergency experience, either statewide or in the municipality, an appointed official within the town will be able to run emergency messaging. He provided examples of redirecting traffic due to a flooded road or a collapsed bridge. Mr. Jaworski marked Exhibit #A-5, Sample Public Service Package.

Board Attorney Kaczynski asked who in the municipality is their contact person. Mr. Antal detailed their protocol where they designate a person within the municipality as the point of contact. The point of contact would provide the creative message that needs to be displayed. If it is an urgent matter and the municipality doesn't have time to create the message, Outfront Media can do a rush job and create something that is a text only type of messaging within minutes. This is available 24 hours a day via a hotline and is done remotely. Chairman Lichtenberger confirmed that the digital billboards operate 24 hours a day. Board Attorney Kaczynski explained that the Borough code that applies to illumination is not under the jurisdiction of the Mayor and Council with respect to timing.

Mr. Jaworski marked Exhibit #A-6, Sample Municipal Package. Mr. Antal explained that partnering with the municipality may include opportunities to promote community information and events. Examples that he shared were upcoming events like was National Night Out with local law enforcement, back-to-school underage drinking awareness, touch-a-truck event or welcoming people to the town which is used when another message for the town isn't available.

Mr. Jaworski marked Exhibit #A-7, Local Emergency Services LED Multi-Message Sign/Protocol "A". Mr. Antal reiterated his earlier statement about designating a contact person on behalf of the municipality. He explained that it may sometimes be the Police Chief or possibly a member of the Office of Emergency Management (OEM). The contact person is a central person to whom each municipal department can convey their messages to and then relay to Outfront Media. Chairman Lichtenberger asked if they have that kind of arrangement with the

state and federal governments. Mr. Antal answer that Outfront Media has a similar arrangement with the state and federal governments. He used the examples of an amber alert, a silver alert or evacuation routes. It is part of their agreement with the state to be a good corporate citizen and to provide them with those opportunities. John Gargagliano asked if there is a fee to the municipality for this opportunity and Mr. Antal replied that there is no fee.

Mr. Gargagliano asked if there is a fee for promoting Borough events and Mr. Jaworski marked Exhibit #A-8, Local Municipal Use LED Multi-Message Sign/Protocol "B". Mr. Antal responded that emergency messaging is different than the public service messages. Emergency messaging preempts paid advertisers to ensure that it is displayed. Protocol B is for public service messages. Outfront Media usually offers to display municipal messages when space is not sold to a paid advertiser. However, for this location they are offering the Borough designated time. Mr. Antal then described how digital signs are operated. Each digital sign has 8 advertisers with each message lasting 8 seconds, so the advertising runs on a 64 second ad loop. Outfront Media is proposing to run an 8 second municipal message once every other loop, every 128 seconds. He calculated that this offer translates to 90 minutes of advertising per day in both directions that the billboard is facing. John Gargagliano asked about the length of time an emergency message is displayed. Mr. Antal answered that the emergency message for something as critical as a bridge collapse would be the only message displayed and that message would display without interruption. For silver alert or amber alerts, the message is exclusive for the first hour that it is reported and then it becomes one of the eight advertisers within the 64 second loop. If less than eight advertisers were running, they would schedule it to run more frequently.

Mr. Antal then discussed static billboard since they currently hold a permit for that type of billboard. A static or vinyl image is traditional medium for outdoor advertising. Static billboards require manual labor to change the ad every single time. A crew is dispatched to the location. They have to unroll the vinyl image, climb to the top of the structure, roll it over the face, secure it with straps and gripper rods and repeat that process when it is time to change the ad typically every four weeks. This is much more labor intensive than the digital billboards. For digital billboards, a crew has to service the billboard about four times a year. Mr. Antal then discussed the standard billboard size of 14' high x 48' wide. He explained that the standard size is reusable for advertisers who want to change locations using the same ad vinyl. An odd size, like 14' high x 44' wide or a smaller size aren't as common. If an advertiser wants change the location, they're would have the additional expense of producing another vinyl. With digital billboards, the same idea applies, but in a different capacity. The majority of the digital billboards that they operate in New Jersey are the standard size of 14' high x 48' wide. When advertisers purchase multiple locations, the digital artwork would need to be resized which is an added expense. Chairman Lichtenberger asked why digital artwork would need to be resized and Mr. Antal replied that the artwork doesn't scale properly. If they tried to use the same digital file, it would stretch it which can distort the picture. The person who's designing the artwork gets paid for their time to resize the artwork which is an added expenditure for the advertiser.

Chairman Lichtenberger asked how the applicant arrived at the overall size of the billboard as presented in the application and Mr. Antal replied that their engineer, Alex Zepponi would testify about the billboard height. He elaborated that the New Jersey Department of Transportation

actually permits a 1,000 square foot per side, but they felt that the 14' x 48' size was appropriate for the location. He explained that this was determined by reviewing the proximity to the roadway, the number of lanes traveled for the roadway, and the distance from the traveled lanes to the sign itself. For example, the further away the sign is from the traveled lanes, the larger the billboard would need to be in order to be visible to the traveling traffic. Chairman Lichtenberger inquired in the proposed billboard could be seen from Route 80 and Mr. Antal answered that it could not be seen from Route 80. He further explained that the DOT regulates billboard locations and how they are viewed from highways. Mr. Gargagliano confirmed that the billboard would be serviced by their technicians within the property boundaries and not via Essex Street or Route 17 South. Harry Hillenius clarified that the billboard height is 70' from the highway and 60' from the ground as a result of the topography. Mr. Gargagliano asked Mr. Antal to compare the proposed billboard height to the existing billboard on Route 17 North in Rochelle Park but Mr. Antal wasn't familiar with the height of the Rochelle Park billboard. Mr. Gargagliano asked if the applicant has sought variances in other municipalities for smaller sized billboards. Mr. Antal replied that the billboard size depends on the roadway and land it is situated on. He gave the example of a billboard in Montville on Route 46 near New Road that is either 10' or 12' high x 24' wide since that size is appropriate for the property and roadway. He added that 14' high x 48' wide is the optimum size for this roadway and property. Gary Neumann inquired about the lighting. Mr. Antal answered that he is not a lighting expert, but in his opinion, the LED digital billboard is actually less intensive because it varies based on ambient light. While they will have an expert testify regarding the lighting, he explained that static billboards have the light reflecting onto the face as compared to LED billboards have the light generated from within. There are also items on the LED billboards that shield the light from reflecting upwards which is unique to their industry and stops spillage in certain directions. Since it is based on the ambient light, the billboard dims when the surrounding area gets darker. The digital billboard is at its brightest when there's direct sunlight on it. Mr. Hillenius confirmed that the property owner, Joseph Muscarelle Investments would be collecting rent from the applicant.

Board Engineer Brian Gillen explained that there was concern about the size of the unit and how the installation would impact retaining walls and other structures nearby. After conferring with the applicant's engineer, Alex Zepponi, his concerns have been satisfied. Board Engineer Gillen then described how the applicant has a geotechnical engineer that specializes in this and will provide the appropriate geotechnical documentation which shows the sign can be supported without impacting any nearby structures. Mr. Jaworski marked the three completeness reviews by the Board Engineer Remington & Vernick; Exhibit #PB-1, Correspondence dated December 20, 2017, Exhibit #PB-2, Correspondence dated January 22, 2018, and Exhibit #PB-3, Correspondence dated January 24, 2018. He agreed to accept the condition of approval that the required structural calculations and geotechnical calculations would be submitted.

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

Susan Rubright is an attorney with Brach, Eichler and represents one of the adjoining property owners, Maywood Realty Associates at 113 West Essex Street. Ms. Rubright asked Mr. Antal a series of questions related to DOT permit ownership, DOT outdoor advertising requirements, billboard maintenance, crane test, target audience, lighting, emergency messages and municipal messages.

Chairman Lichtenberger announced that the Board would like to end the meeting by 10pm since many in attendance needed to work the next morning. Board Attorney Kaczynski asked which party would be responsible for landscape maintenance around the billboard and Mr. Antal answered that he wasn't sure who would be responsible for landscape maintenance. She then wanted to know if he could explain the W/S on the DOT permit (Exhibit A-1). He replied that W/S stood for west side Route 17 and 77 feet is the distance from the cross street. He detailed that the way he would read the DOT permit is that the billboard is west side 77 feet, north of County Route 56, which in parentheses, Essex Street and it's a back to back structure meaning that it is two sided. Mr. Jaworski apologized for using the word "appeal" in reference to the LED sign in the Board variance application and confirmed with Mr. Antal that the word "application" is more accurate. Mr. Jaworski pointed out that the crane test was done in order to correctly depict the size, location and height of the proposed billboard. Mr. Antal concurred saying that the alternative is an artist rendering but felt the crane test was more accurate.

Mr. Jaworski believes that there would not be time for the applicant's engineer to testify. Ms. Rubright requested that Mr. Jaworski forward her all the documents that are submitted to the Board. Board Attorney Kaczynski confirmed with Ms. Rubright that Maywood Realty Associates is an objector to the application. Mr. Jaworski agreed to forward materials to Ms. Rubright. He then asked if the application hearing could be carried to the 4/26/18 meeting to accommodate Lou D'Arminio from Price, Meese, Shulman and D'Arminio as co-counsel on the application. Board Recording Secretary Grunstra verified that no other applications are scheduled for that meeting and the application was carried to the 4/26/18 meeting without any obligation to re-notify the public.

Mayor's Designee Rick DeHeer and Councilman Michael Gervino rejoined the dais.

Closed Session None

Informal Hearing None

Old Business None

Open Meeting to the Public

New Business Ordinance Revisions

Brough Clerk Jean M. Pelligra provided a memo on 3/14/18 related to Ordinance #3-18 Amending Chapter 209, Section 25B and Section 37.1 of the Land Use Code of the Borough of Maywood. Board Attorney Kaczynski will provide the Mayor and Council recommendations from the Board related to the ordinance. She suggested changing the title name from Sexually Orientated Business Overlay District to Business Overlay District to reflect the other permitted uses. Chairman Lichtenberger made a motion to recommend the change to the ordinance and Gary Neumann seconded the motion. All eligible members in attendance voted in favor of the motion.

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Gary Neumann seconded the motion. The meeting was adjourned at 9:44pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary