

**MAYWOOD PLANNING BOARD  
MINUTES  
June 23, 2016**

A regular meeting of the Maywood Planning Board was held on Thursday, June 23, 2016 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, 2015. 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 7:29pm with the following members present: Chairman Frank Lichtenberger (arrived at 8:38pm), Vice Chairman Paul Kuhn, Secretary Charlotte Panny, Councilman Rick DeHeer, John Montel, Harry Hillenius, Charles Goebel, and John McManus. Also present were Zoning Officer James Mazzer, Board Attorney Kara Kaczynski and Board Engineer Tom Lemanowicz.

**Approval of Minutes**

Harry Hillenius made a motion to accept the minutes from the June 2, 2016 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. Harry Hillenius seconded the motion. All members present voted in favor of the motion.

**Correspondence**

- 6/9/16 letter from Thomas K. Hynes, counsel for Marilyn J. Machlin Re: Completeness Review Clarification
- 6/13/16 Public Notice for Bergen Town Center, Paramus
- 6/19/16 letter from Tom Lemanowicz Re: 561 Elm Street Completeness Review
- 6/21/16 letter from Tom Lemanowicz Re: Marilyn J. Machlin Completeness Review

**Resolution**

None

**Hearing #1**

**Maywood Tennis Club, Inc.**  
263 West Passaic Street  
Block 86, Lot 15  
**Calendar #2016-08**  
**Sign Application w/o Variance**

John Montel recused himself from hearing the application.

The applicant, Thomas Hemmerling of 73 Edgewood Place was sworn in. He is the Manager of the Maywood Tennis Club. He is proposing replacing the damaged existing freestanding sign with a new freestanding sign. The sign contractor, Joseph Sevean of Signs By Tomorrow in Hawthorne, NJ was sworn in. Zoning Officer James Mazzer was also sworn in and believes that the proposed sign conforms to code. The Maywood Tennis Club is proposing a freestanding sign:

- 17.5 square feet conforms to code
- 3 colors conform to code (white, green and gold)
- Carved high density urethane (HDU) composite foam board
- Two-sided
- Externally illuminated using spotlights
  - Hours of illumination: dusk until midnight which complies with the ordinance
- The proposed sign will be located in the same location as the existing sign

Harry Hillenius made a motion to approve the sign application without a variance. Councilman Rick DeHeer seconded the motion. All members present voted in favor of the motion.

John Montel rejoined the Board.

**Hearing #2**

**Marilyn J. Machlin**

326 Maywood Avenue  
Block 118, Lot 4  
Calendar #2016-07

**Minor Subdivision & Variance Application**

This application has not been deemed complete. Charles Goebel made a motion to adjourn the application to the 7/7/16 meeting without requiring additional notice. John Montel seconded the motion. All members present voted in favor of the motion.

Councilman DeHeer recused himself from the Board prior to the hearing beginning.

**Hearing #3**

**561 Elm Street, LLC**

561 Elm Street  
Block 78, Lot 14  
Calendar #2016-06

**Variance Application**

Charles H. Sarlo represents the applicant, 561 Elm Street, LLC, and agreed to have the application heard by six Board members. Mr. Sarlo provided an overview of the application. The property is a vacant lot on the corner of Elm Street and East Pleasant Avenue located in the A2 zone which permits two family structures. The applicant would like to build a two family side-by-side dwelling orienting the front of the property to East Pleasant Avenue. While a D(4) variance is required for the Floor Area Ratio (FAR), there is a disagreement amongst the applicant's engineer and the Board Engineer about the lot coverage percentage. Mr. Sarlo

believes that testimony will clear up this discrepancy. More importantly, there is a question as to which C bulk variances would be needed based on the Ordinance #5-16 effective date. If the Board applies the previous Land Use Code, the applicant will require front and rear yard setback variances. If the Board applies the new land code, the applicant will need variances for building height and the number of stories but no variances for the front and rear yard setbacks. Based on the language of Ordinance #5-16, Mr. Sarlo believes that it was the intent of the Mayor and Council that the Ordinance becomes effective once it was filed with Bergen County, which was after the 561 Elm Street application had been submitted:

This Ordinance shall not take effect until completion of the filing required by N.J.S.A. 40:55D-16 and expiration of any and all statutory appeal periods.

As such, he believes that the previous Land Use Code should apply and the front and rear yard setbacks C bulk variances are required. John McManus made a motion to apply the Land Use Code prior to the adoption of Ordinance #5-16. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Mr. Sarlo then summarized the variances that are being sought by the applicant:

- Maximum Floor Area Ratio (FAR) – 69.4% proposed vs. 50% allowed
- Minimum front yard setback – 15.33’ proposed vs. 25’ required
- Minimum rear yard setback – 5’ proposed vs. 30’ required
- Maximum lot coverage discrepancy. Board Engineer Tom Lemanowicz believes that the proposed amount is 33% vs. 30% allowed
- Number of stories may need to be quantified since the previous story definition stated:  
If the finished floor level directly above a basement or cellar is more than six feet above grade such basement or cellar shall be deemed a story

The first witness was the applicant’s engineer, Raymond Moraski of Koestner Associates. Mr. Moraski has appeared before this Board previously and was accepted as an expert. He proceeded to discuss the Site Plan dated 1/26/16 with the last revision date of 4/7/16 which had been submitted with the original application. He summarized the property, variances required and mentioned that the maximum building height is 33.65’ vs. 35’ allowed. This figure was used to determine the building stories at 2.5. He then noted the discrepancy between his lot coverage percentage as compared to the Board Engineer’s calculation. Board Engineer Lemanowicz included the front steps as part of the porch in his calculation.

Chairman Frank Lichtenberger joined the meeting at 8:38pm.

Mr. Moraski concluded that drainage calculations were submitted. The 500-gallon seepage pit is proposed to be constructed in Unit B’s driveway. Board Engineer Lemanowicz stated that 1,000-gallon seepage pit proposed for the northeast corner of the property would collect runoff from both unit’s roofs and would require leaders to go under the driveway. Mr. Moraski replied that he would work with the architect to revise the plan to the Board Engineer’s satisfaction. Board Engineer Lemanowicz noted that the 500-gallon seepage pit in Unit B’s driveway does not have an overflow. He recommends that the Unit B driveway apron be designed so as not receive water runoff from East Pleasant Avenue.

The next witness was the applicant's architect, John Tudor of Tudor Architects. Mr. Tudor provided his qualifications and was accepted as an expert. Mr. Tudor explained that this corner property was challenging to design because it is narrow and the grading slopes down significantly since it is on a hill. He began to discuss the proposed Site Plan A-1, A-2, A-3 and A-4 dated 2/1/16 with the last revision date of 3/18/16 which had been submitted with the original application. Rather than build a tall retaining wall, the Unit B driveway is level with street. The design that he proposes will have parking for 8 vehicles. He believes the design is aesthetically pleasing and will fit in with the neighborhood. Charles Goebel asked what was the square footage of each unit and Zoning Officer Mazzer answered that each unit was approximately 1,800 square feet. Mr. Goebel questioned why they didn't choose to create a single family home of approximately 3,600 square feet. Mr. Tudor said that a one-family home was considered but the property is zoned for two-family development.

The next witness was the applicant's planner, Kenneth Nelson of Nelson Consulting Group. Mr. Nelson provided his credentials and was accepted as an expert. He distributed a five-page packet which was marked as Exhibit A-1.

- Page 1 is an aerial photograph of the neighborhood provided by Google Maps
  - The applicant's property was noted with a red flag
- Page 2 is 3 photographs of the neighborhood properties with captions indicating which direction the photographer is facing
- Page 3 is a photograph of a multi-family dwelling located on East Passaic Street provided by Google Maps
  - The rear of this property is in close proximity to the applicant's property
- Page 4 is 2 photographs of the site with captions indicating which direction the photographer is facing
- Page 5 is 2 photographs of the site and adjoining two-family structure with captions indicating which direction the photographer is facing

Mr. Nelson began by summarizing the property neighborhood as diverse mix of structures with largely residential dwellings and one institutional use (church on East Pleasant Avenue). Many structures appear to be non-conforming with some non-conforming uses citing the multi-family dwelling is Exhibit A-1. There does not seem to be a set development pattern for the neighborhood. In order to orient the applicant's proposed dwelling to East Pleasant Avenue, front and/or rear yard setback variances would be required since the 50' depth is insufficient for the 25' front yard and 30' rear yard setback requirements. He believes that the proposed two-family home is a good fit for the property and the neighborhood. Additionally, he believes that the proposed development will upgrade the property since it is now vacant. He pointed out that the proposed dwelling is similar in design to the adjacent 2-family home on Elm Street.

Since there is a D variance for Floor Area Ratio (FAR) and several C variances, the C variances are subsumed by the D variance. Mr. Nelson noted the proposed dwelling's pitched roofs, fenestrations and gables minimize the appearance of a structure that exceeds the FAR. He cited the 2003 Master Plan and the 2009 Master Plan Reexamination goal:

Maintaining and enhancing the quality of established neighborhoods and prevailing densities.

Mr. Nelson believes that the proposed development is a good fit for the lot and enhances the neighborhood. He considers this a less intense use since the lot area is 20% larger than the minimum required for the zone (6,000 square feet actual vs. 5,000 square feet minimum).

Mr. Nelson then detailed the positive criteria. The zoning and master plan consider a two-family use as appropriate for this property. Although there is a FAR overage, the building fits on the lot without any significant negative impact on the surrounding area. He cited the Coventry Square case as the standard. If you omit the basement square footage, the FAR is only 57.9% vs. the 50% allowed. Mr. Nelson then discussed the negative criteria. He believes that the adjoining properties will not be negatively impacted because there is no uniform development pattern in the neighborhood. He observed several neighborhood structures that appear to exceed the FAR. In terms of the C variances, there is no additional land to expand the property. Mr. Nelson reminded the Board that the physical characteristics of the lot have impacted the proposed design for the C(1) argument. He proposes that the C(2) argument applies since the public benefits substantially outweigh the detriments. He thinks that building an attractive structure on a vacant lot enhances the neighborhood and is compatible with the neighborhood. Lastly, Mr. Nelson believes that the proposed development does not impair the intent and purpose of the zoning or master plan since the zone encourages two-family structures.

Charles Goebel asked if the residents of the existing two-family home on Elm Street would consider this development an enhancement to the neighborhood. He then asked applicant's counsel if the applicant is planning to reside in either of property's units. Mr. Sarlo indicated that the applicant does not plan to reside in the proposed dwelling. He expects that the units will be rented or condo ownership. Mr. Nelson replied that if the development was for a single family dwelling facing Elm Street, the side yard setback would be 5' which is the same as the rear yard setback for the proposed development since it fronts to East Pleasant Avenue. Chairman Frank Lichtenberger asked if anything in the plan had changed from when it was presented at an Informal Hearing in December 2015. His was concerned about line of sight at the Elm Street and East Pleasant Avenue intersection which has had several car accidents in the past. Board Attorney Kara Kaczynski asked for clarification on the basement and Mr. Sarlo explained that the basement consists of a two-car garage, mechanical room for utilities and basement storage area. She then asked Zoning Officer Mazzer if the construction code requirements are different for rentals vs. condos. Mr. Mazzer explained that if the dwelling is sold as two separate condos, a two-hour firewall would be required for the adjoining walls as well as separate utilities with no crossover between the units. He expanded that the property is set back from the corner to allow sufficient sight lines for the intersection. Mr. Tudor confirmed that the dwelling orientation on the lot has not changed since the Informal Hearing presentation. He pointed out the distances of the dwelling from Elm Street and East Pleasant Avenue using the Engineer's Site Plan dated 1/26/16 with the last revision date of 4/7/16. Mr. Tudor then confirmed that there are sufficient sight lines for the intersection.

John McManus asked how high the proposed structure would be as compared to the existing two-family dwelling on Elm Street. Zoning Officer Mazzer believes that it will be significantly lower. He said the second floor of the existing two-family dwelling on Elm Street would overlook the proposed dwelling's roof. He further expanded that one of the residents of the existing Elm Street two-family came into the Building Department to view the applicant's site

plan. Mr. Mazzer also went to the applicant's property with the resident to review the proposed structure's height. He summarized that the resident seemed satisfied with his explanation and was not in attendance at this hearing. Board Engineer Lemanowicz respectfully disagreed with Zoning Officer Mazzer's height assessment. Using the Engineer's Site Plan, Mr. Lemanowicz stated that the proposed dwelling Unit A would be approximately the same height as the existing two-family home on Elm Street and Unit B would be several feet higher than the existing two-family home on Elm Street. John Montel asked what would the height of the roof of Unit A if measured from the driveway on Elm Street. Board Engineer Lemanowicz answered that the height is 37'. Mr. Lemanowicz then asked the applicant's planner, Kenneth Nelson about how the proposed structure compares to the existing two-family dwelling on Elm Street in terms of visible mass, open outdoor space and impervious coverage. Mr. Nelson replied that the sites are different since the applicant's property is a corner lot and will be seen from two sides. The roof of the proposed structure will have a higher pitch than the existing Elm Street two-family dwelling. He further explained that the pitched roof, gables and fenestrations minimizes the visible mass. Board Engineer Lemanowicz asked if the proposed structure was a one-family home, the Unit B driveway on the western side of the property could be outdoor living space. Mr. Nelson agreed that it could be and noted that the existing two-family is on a wider lot (60' vs. 50' on the applicant's lot). Mr. Nelson concluded that the property is zoned for two-family use and will be used as such. Mr. Sarlo added that a special reason is to provide appropriate densities in appropriate locations. Board Engineer Lemanowicz pointed out that the bump-outs on the front of each unit facing East Pleasant Avenue contribute to the setback by approximately 1' making the front yard setback approximately 14' vs. 15.33' as stated in the zoning review table.

Vice Chairman Kuhn asked if the units were sold as condos and required separate utilities, would the proposed drainage solution be allowed. Board Engineer Lemanowicz summarized that the 1,000-gallon seepage pit proposed for the northeast corner of the property would collect runoff from both unit's roofs but everything else would be separate. Zoning Officer Mazzer said that he would require the roof runoff to be separated so that each roof would go to their own seepage pit. Additional wells would be required and Board Engineer Lemanowicz believes that they would fit on the property. Vice Chairman Kuhn asked where the air conditioning mechanicals will be located for each unit. The applicant's architect, John Tudor answered that the air conditioning mechanicals would be located in the back corner of the proposed structures on a concrete pad in the 5' rear yard setback. Chairman Lichtenberger reminded the applicant that the basement is a garage, mechanical utility room and storage and cannot be used as living space and Mr. Sarlo agreed. Charles Goebel asked if the proposed dwelling is considered a duplex and Mr. Sarlo answered that it would be considered a duplex since it is side-by-side. He further explained that each unit could be sold as a condo using a simplified DCA application. Mr. Goebel asked if the exterior cladding would be aluminum siding and Mr. Tudor replied that it would be either hardie board or high end vinyl. He continued that the base of the dwelling would be cultured stone and the windows would most likely Anderson or Pella.

The final witness was the applicant, Kami Rehanian of 561 Elm Street LLC. Mr. Rehanian informed the Board that he was the builder of the two-family home on Grove Avenue and he expects to have a similar finishes for the proposed dwelling. He has also built homes in Hackensack, Paramus, Oradell and New York City. Mr. Tudor detailed the materials planned for

the exterior. He offered to change the roof pitch to lower the height. He would revise it from 8 on 12 to 6 on 12. John Montel believes that the proposed pitch would be best. He also would prefer the use of hardie board over vinyl siding. Mr. Rehanian agreed to have the hardie board cladding as a condition of approval but he would prefer to keep the roof pitch to what was proposed. Chairman Lichtenberger concurred that it would not be worthwhile to change the roof pitch.

Vice Chairman Paul Kuhn opened the hearing to public input and there was no public present.

Board Attorney Kaczynski noted that the following completeness waivers must be granted before voting on the application:

- B(5) Requires affidavit from property owner identifying him/her as the owner. The affidavit would also authorize others to submit the application, which is not required here.
  - Mr. Rehanian testified that he is a part owner
- B(6) Requires a list of corporate stockholders or partners with more than 10% interest or stock, along with their addresses. The information is also required under the Municipal Land Use Law. This listing is not provided, but the affidavit in B(5) will address this issue.
  - The applicant would need to provide this as a condition of application approval
- B(7) Requires one of several documents with respect to the existence of wetlands on the property.
  - The Board Engineer takes no exception to a waiver for this item
- B(8) Requires proof of submission to, or exemption from submission to the Bergen County Department of Planning and Economic Development.
  - The applicant would need to provide this as a condition of application approval
- B(13) Requires written request for any waivers to the completeness checklist. This item has not been provided.
  - This list will serve as a written request
- C(31) Requires plans profiles of existing and proposed utilities. The plans show a new connection to an existing sanitary main, but not a profile.
  - The Board Engineer takes no exception to a waiver for this item
- C(33) Requires a Soil Erosion and Sediment Plan.
  - The applicant would need to provide this as a condition of application approval

Mr. Sarlo understands that the Board is concerned about the impact of the proposed structure to the adjoining two-family Elm Street property with the proposed 5' setback. He noted that Mr. Mazzer testified that the neighbor viewed the plans and was sufficiently satisfied so as not to attend the hearing. Mr. Sarlo believes this supports the proof that there is no substantial detriment to the character of the neighborhood. He pointed out that the applicant could have built an older "pancake" style two-family structure with one unit above the other facing Elm Street without needing a variance. The applicant chose to orient the building to East Pleasant Avenue and proposes that it be side-by-side because he believes that it is a more attractive structure and will enhance the neighborhood. Board Attorney Kaczynski asked if the adjoining Elm Street two-family home is rented or owned and Zoning Officer Mazzer answered that the dwellings are condominiums. Charles Goebel asked what the interior finishes were for the

existing Elm Street two-family and Mr. Mazzer can't recall since it has been so many years since he was last inside. Mr. Rehanian explained that the proposed dwelling will have quality finishes such as granite countertops. Chairman Lichtenberger pointed out that while he can't vote on the application, the Board was amenable to the proposal when the applicant came to the Board informally in December 2015. John McManus asked why the lot was vacant for so long and Mr. Mazzer explained that the previous owner, Perparim Gjatollari, had been in federal foreclosure until last year.

Vice Chairman Paul Kuhn made a motion to grant the application completeness waivers with the exception of three items below as conditions of application approval:

- B(6) Requires a list of corporate stockholders or partners with more than 10% interest or stock, along with their addresses. The information is also required under the Municipal Land Use Law. This listing is not provided, but the affidavit in B(5) will address this issue.
- B(8) Requires proof of submission to, or exemption from submission to the Bergen County Department of Planning and Economic Development.
- C(33) Requires a Soil Erosion and Sediment Plan.

Harry Hillenius seconded the motion. All members present voted in favor of the motion.

Harry Hillenius made a motion to approve the variance application for the following variances:

- Minimum rear yard setback – 5' proposed vs. 30' required
- Minimum front yard setback – 15.33' proposed vs. 25' required
- Maximum Floor Area Ratio (FAR) – 69.4% proposed vs. 50% allowed
- Maximum number of stories – 3 stories proposed vs. 2.5 stories allowed

Maximum lot coverage does not require a variance as stairs should not be used in the calculation.

John Montel seconded the motion. The following are conditions of application approval:

- Board Engineer's technical comments from the 6/19/16 Completeness Review
- Seepage pit and drainage details will be revised and submitted to the Board Engineer
- Determination of condo or rental units prior to construction plans being submitted
- Installation of hardie board over vinyl siding as exterior cladding
- Inclusion of items B(6), B(8) and C(33) from the 6/19/16 Board Engineer Completeness Review

All eligible members present voted in favor of the motion.

Councilman DeHeer rejoined the Board.

**Informal Hearing**                      None

### **Old Business**

- Chairman Lichtenberger asked for an update of the Muscarelle driveway
  - Board Attorney Kaczynski advised that the issue is under Zoning Officer Mazzer's purview and there is nothing further for the Board
- Board Attorney Kaczynski confirmed with James E. Jaworski, counsel for Fitness & Wellness of Hackensack that the Howcroft Road sidewalk improvement has been completed



- Zoning Officer Mazzer added that Murray Construction will be cleaning up the area that borders the new sidewalk area

### **New Business**

- Chairman Lichtenberger had a meeting with Board Planner Michael Kauker and Borough Administrator Roberta Stern to discuss three items:
  - COAH Billing
    - Billing is being funded by the Borough and Administrator Stern will work directly with the Borough CFO
    - Future billing is unknown as is dependent on Court actions
  - Master Plan Reexamination
    - Board Planner Kauker has worked on a large portion with the Housing Element and Fair Share Plan
    - Negotiated the fee down to \$7,500
  - Route 17 North Redevelopment Plan
    - Approximately \$1,000 remaining to be paid the Board Planner Kauker
    - Chairman Lichtenberger had asked that the project be paused based on additional information from the Army Corps of Engineers
    - After receiving information that Kin Properties is pursuing development, Chairman Lichtenberger asked Board Planner Kauker to complete the project

**Open Meeting to the Public** None

### **Adjournment**

A motion to adjourn the meeting was made by Harry Hillenius. John McManus seconded the motion. The meeting was adjourned at 10:33pm.

Respectfully submitted,

Tara Grunstra  
Planning Board Recording Secretary