

MAYWOOD PLANNING BOARD
MINUTES
June 27, 2024

A regular meeting of the Maywood Planning Board was held on Thursday, June 27, 2024 in the Council Chambers of the Maywood Municipal Building, 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 December 7, 2023. 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 same pursuant to said act. This meeting is being recorded with 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 7:30pm with the following members present:

Councilperson Ryan Ullman

Chairperson Charlotte Panny

Vice Chairperson Anthony Klymenko

Cynthia Petersen

John Gargagliano

Harry Hillenius

Douglas Herrick

Thomas Lindenau

Thomas Anzevino

Rick DeHeer

Board Attorney John Ferraro

Board Engineer Gregory Polyniak

Bills

Cynthia Petersen made a motion to accept payment of the bills.

John Gargagliano seconded the motion.

All eligible members present voted in favor of the motion.

Correspondence

1. 6/7/24 letter from Board Engineer Gregory Polyniak Re: JW Congregation Support 439 Maywood Avenue Resolution Compliance Review
2. 6/17/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9745 Duke Realty 149-151 Maywood Avenue Escrow Shortage Letter
3. 6/17/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9794 JW Congregation Support 439 Maywood Avenue Escrow Shortage Letter
4. 6/17/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9795 Mady Properties 930 Spring Valley Road Shortage Letter
5. 6/18/24 letter from Eric V. Timsak of Bergen County Department of Planning & Engineering Re: JW Congregation 439 Maywood Avenue Comment Cover Letter

6. 6/19/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9804 Bennin-Gupta 730 Grant Avenue Escrow Shortage Letter
7. 6/19/24 letter from Board Recording Secretary Tara Grunstra Re: Acct #9805 Timothy J. Coe 181 Roosevelt Place Escrow Shortage Letter
8. 6/19/24 letter from Board Engineer Gregory Polyniak Re: Bryan Goldsman 157 Thoma Avenue Completeness & Engineering Review
9. 6/20/24 letter from Matthew G. Capizzi, Esq. Re: Filip Kristani 44 Parkway Hearing Adjournment to 7/25/24 Meeting
10. 6/24/24 letter from Board Engineer Gregory Polyniak Re: Bryan Goldsman 157 Thoma Avenue Revised Completeness & Engineering Review
11. 6/24/24 letter from Board Recording Secretary Tara Grunstra Re: Bryan Goldsman 157 Thoma Avenue Application Hearing Date 8/1/24
12. 6/26/24 letter from Board Engineer Gregory Polyniak Re: Duke Realty 149-151 Maywood Avenue Revised Resolution Compliance Review
13. 6/26/24 letter from Board Engineer Gregory J. Polyniak Re: TRB Associates 145 West Passaic Street Revised Resolution Compliance Review

Resolution None

Completeness Hearing None

Application Hearing #1 **Kine Buds Maywood, LLC**
113 East Passaic Street
Block 77, Lot 20
Calendar #2023-10A
Amended Site Plan Application
Amendment of a resolution of approval of an application for a minor site plan permitting its operation as a class 5 cannabis retailer, to remove a condition requiring the installation of a solar-powered crossing signal

From the Applicant:
Attorney Edward Mainardi of Mainardi & Mainardi
Applicant Russell Kuchta

From the Board:
Board Attorney John Ferraro
Board Engineer Gregory Polyniak

Edward Mainardi represents the Applicant, Kine Buds Maywood, LLC. He reminded the Board that the Applicant had received site plan approval but needed to return to the Board because they could not satisfy the condition of approval to install a solar-powered crossing signal:

- The solar-powered crossing signal was requested by Maywood Police Chief Terence Kenny
- The Applicant submitted the site plan to Bergen County which was approved but the crosswalk was referred to the County ADA Coordinator who wanted a new crosswalk in a different location
- Mr. Mainardi described the crosswalk as an off-tract improvement which was agreed to in order to ensure safety

- He summarized the on-site improvements that were also agreed to such as replacing the curbing and aprons, restriping the parking lot including fire zones, adding an ADA parking space and ramp, and adding 2 seepage pits in the rear of the property to remediate a stormwater issue
- He is requesting that the Board remove the condition requiring the installation of a solar-powered crossing signal
- He cited Board Engineer Gregory Polyniak's review and would like Applicant Russel Kuchta to address certain comments

Mr. Kuchta was sworn in:

- He confirmed that they are not proposing any changes to landscaping, lighting, grading or utilities
- He said that Fire Zones will be painted in the front and rear of the property to allow emergency vehicle access

Mr. Mainardi asked Board Engineer Polyniak if there were any other comments outstanding:

- Board Engineer Polyniak requested that several notes to be added to the site plan and Mr. Mainardi agreed to add them
- Board Engineer Polyniak confirmed that the existing crosswalk would remain but the Applicant was requesting that the solar-powered crossing signal be removed as a condition of approval
 - He noted that the request was so that patrons that parked on Esplanade or Golf Avenue would be able to safely cross East Passaic Street

Chairperson Charlotte Panny invited the Board and the public to ask questions of Mr. Kuchta and comment on the application:

- Bob McDonald of the American Legion noted that there is significant pedestrian traffic between the American Legion and Lydecker Manor
- Matthew Hynes of 104 East Pleasant Avenue said that parking on East Pleasant Avenue is difficult as there are 2 houses of worship near the subject property. He said that the Boys Scouts utilize Zion Lutheran Church for meetings and believes that there is a Federal statutory distance required between youth centers and cannabis dispensaries. He does not remember receiving notice for the 2023 application hearing
- Rick DeHeer asked if Chief Kenny had responded to the request for the removal of the condition requiring the installation of a solar-powered crossing signal and Board Engineer Polyniak answered that he had not received an updated review from Chief Kenny

Board Attorney John Ferraro explained that as a permitted use, the Board is not permitted to require off-tract improvements. He clarified with Mr. Mainardi that the County wants another crosswalk added in a different location but they did not address the solar-powered crossing signal.

Another member of the public wished to be heard:

- Tom Richards of 247 Golf Avenue and the Commander of the American Legion Post 142 asked about security to ensure that the Cub Scouts and Boy Scouts are safe
 - Mr. Kuchta answered that New Jersey requires patrons to show ID before entering the dispensary and children would not be admitted
 - He added that on-site consumption is prohibited and strictly enforced by their security guards
- Councilperson Ryan Ullman noted that there is a liquor store that sells alcohol and cigarettes in the same strip mall

- Jenica Siniscalco of 66 West Magnolia Avenue believes that cannabis is as dangerous as alcohol and cigarettes. She was unaware of the application as she lives outside the 200’ radius but thinks parents should have been notified
- Tom Slaughter of 38 East Hunter Avenue and 96 East Pleasant Avenue said that he did not receive notice of tonight’s hearing or the 2023 hearing. He has observed a police officer by the Ascend dispensary in Rochelle Park and asked if the dispensary paid for him to be present. Chairperson Panny believes that the dispensary would pay for police presence. Mr. Kuchta said that the dispensary would pay for an on-site police officer
 - Mr. Mainardi explained that the Applicant receives the 200’ list from the Tax Assessor. He advised that Mr. Slaughter’s address was not on the list so he did not receive notice
- Board Attorney Ferraro explained that the Mayor and Council zoned this property for a cannabis dispensary
- Tricia Flavien of 119 East Pleasant Avenue did not receive notice
- John Gargagliano asked how the 200’ is measured and Board Attorney Ferraro answered that it is from the subject property line in all directions
- Board Engineer Polyniak reviewed Google maps and observed that the depth of the properties that back to the subject on East Pleasant Avenue is 150’ plus the 50’ right-of-way may be why some members of the public did not receive notice but he emphasized that he didn’t measure the distance exactly

Board Attorney Ferraro summarized that the Applicant is seeking to remove the requirement from the resolution that they make application with Bergen County to install a solar-powered crossing signal. Vice Chairperson Anthony Klymenko confirmed that the existing crosswalk would remain. Thomas Anzevino asked if there could be a police officer posted near the crosswalk should foot traffic require it. Mr. Mainardi read a condition from the resolution that required the Applicant to pay for any police personnel to regulate traffic and ensure pedestrian safety.

Councilperson Ullman made a motion to remove the condition requiring the installation of a solar-powered crossing signal.

John Gargagliano seconded the motion.

All eligible members voted in favor of the motion except Thomas Lindenau who abstained and Rick DeHeer who voted against the motion.

Application Hearing #2

New Look Home Design, LLC

341 Maywood Avenue

Block 121, Lot 25

Calendar #2023-07

Minor Subdivision Application

Permit creation of three (3) conforming lots

From the Applicant:

Applicant Rony Dawood of New Look Home Design, LLC

From the Board:

Board Attorney John Ferraro

Board Engineer Gregory Polyniak

Rony Dawood of New Look Home Design, LLC was sworn in and summarized the application:

- A minor subdivision creating 3 single family lots where there is currently 1 house
- The existing house will be razed and 3 lots created with 1 single family house on each lot
- No variances being sought
- The property owner is planning to occupy one of the new houses

Chairperson Panny confirmed that the 3 new houses would be facing West Magnolia Avenue. She asked if the houses would be identical and Mr. Dawood said that they would have the same concept but would look different. He added that each house would have a 2-car garage.

Board Engineer Polyniak had questions for the Applicant:

- He confirmed that each of the 3 houses would comply with Borough code and all required drainage improvements would be constructed
- He confirmed that the existing home would be completely razed and new fencing installed
- He asked that a series of notes be added to the subdivision plan and Mr. Dawood agreed

Chairperson Panny invited the public to ask questions of Mr. Dawood:

- Someone from the public asked to see the plans and Board Engineer Polyniak described the site plan as having the lots delineated but not showing the proposed houses
- Lori O'Connell of 18 West Magnolia Avenue is concerned about traffic with 3 new houses, considers the current state of the property to be in disrepair and does not want the inconvenience of construction near her home
 - She asked who she could contact about the condition of the property and Chairperson Panny advised that there is a Property Maintenance Official
- The next person's first name is not clear but his last name is O'Connell and he lives at 24 West Magnolia Avenue. He does not believe that the property is large enough to be split into 3 conforming lots and considers the current state of the property to be in poor condition. He asked if the 3 houses were to be sold or rented out. He complained about traffic from Atlas Healthcare and a house of worship on the block
- Lisa Montany of 33 West Magnolia Avenue reviewed Board Engineer Polyniak's subdivision plan copy and does not understand how a property with a Maywood Avenue address can become 3 properties with West Magnolia Avenue addresses. She considers the corner to be dangerous when making turns. She has observed multiple homes on single family lots and thinks that this forced the school to pursue a recent referendum to build additional classrooms
 - Chairperson Panny answered that some lots are large enough to be subdivided
 - Lisa Montany asked where the driveways and seepage pits would be located
- Jenica Siniscalco of 66 West Magnolia Avenue believes the schools are already crowded. She thinks that the subject property could be split into 2 lots but not 3 lots. She said that modern homes will not fit in with the historic houses on the block. She agreed that the existing home is not habitable and should be razed. She complained about the traffic on West Magnolia Avenue
 - Harry Hillenius advised that the 3 proposed houses will need to comply with the Borough code
- Lisa Montany of 33 West Magnolia Avenue confirmed that there will be adequate on-site parking for the 3 proposed houses. She asked how the driveways would be designed. Board Engineer Ployniak did not know the answer but repeated that the houses would need to conform to Borough code or seek a variance from the Planning Board

- Vice Chairperson Anthony Klymenko said that each home would have a minimum of 5' side yard setback
 - He advised that the boxes representing the 3 proposed homes on the subdivision plan may not be built to those exact specs but reflect the setback requirements that the Applicant must adhere to
- Lisa Montany has concerns about traffic
- Board Engineer Polyniak explained that this application is by-right subdivision and should the Board deny the application, the Applicant could sue the Borough and the Board's denial would be overturned. He added that the code allows for these lots to be developed
 - Board Attorney Ferraro concurred with Board Engineer Polyniak's summary as the Applicant is not seeking variance relief
- Rick DeHeer thanked the public for coming to voice their concerns and he said that he had similar concerns
- Mr. Dawood noted that each of the 3 proposed lots exceeds the minimum size of 5,000 square feet. He added that the homes that he builds are attractive and will complement the existing houses
 - A member of the public who was not identified asked for the size of each lot. Mr. Dawood said that the largest lot would be 6,542 square feet and the other 2 lots would be 5,434 square feet each
 - The same unidentified person asked for the dimensions. Mr. Dawood answered that 2 lots would be 52' x 104.5' and the largest lot is irregularly shaped with the front being 83.13' and back being 42.07', the left side would be 104.5' and the right side would be 112.28'
 - The same unidentified person confirmed that the 2-car garage will be attached the house
- Tricia Flavien of 19 West Magnolia Avenue said that she lives next door to the subject property. She has observed the neglected property maintenance. She asked if the Applicant will appear before the Board again for approval on the houses' plans prior to construction
 - Vice Chairperson Klymenko answered that the Applicant will return to the Board to show that the houses comply with the Borough code
 - Cynthia Petersen said that the Applicant will provide renderings of the 3 proposed houses
 - Board Engineer Polyniak corrected the 2 Board members and advised that NJ Municipal Land Use Law does not require Board approval of one- and two-family homes if they comply with the zoning ordinance. He added that if any of the proposed houses do not comply, the Applicant would need Board approval of any variances required
 - Mrs. Flavien asked what the size of the largest house would be
 - Board Attorney Ferraro said that the house would need to follow setback, coverage and height requirements but the design would be up to the builder
 - Mrs. Flavien is concerned that the demolition of the existing house will cause the vermin to come onto her property
 - Mr. Dawood said that if the application is approved, he would demolish the existing house and clear away the debris right away
 - Board Attorney Ferraro said that the Building Department has requirements when a house is razed
 - She asked that the property be subdivided into 2 lots and not 3 lots
 - Chairperson Panny explained that the Board must vote on the application as it is presented

- John Gargagliano said that by the public attending the meeting, the Applicant is aware of their concerns
- Wayne Flavien of 19 West Magnolia Avenue confirmed that the Borough code stipulates that the minimum lot size is 50' x 100'. He is also considering subdividing his property
- Harry Hillenius addressed Mrs. Flavien's concern about vermin coming onto her property. He advised that the Building Department demolition permit requires a pest control specialist to certify that there are no rodents on the subject property prior to demolition. If there are rodents on the property, the pest control company would need to remove them prior to certification
- Lori O'Connell of 18 West Magnolia Avenue asked who enforces that rule and Cynthia Petersen answered the Building Department enforces the rule
 - She said that she does not have confidence in the Building Department. She asked how the Board can mitigate the impact to the residents
 - Chairperson Panny said that the Board creates a master plan
 - Cynthia Petersen added that the Applicant would get construction permit from the Building Department who would enforce the rules. She advised that if the rules are not followed, the Building Department would issue a violation
 - Vice Chairperson Klymenko noted that the Board would have more influence via conditions of approval if the Applicant was seeking a variance
 - Cynthia Petersen suggested calling the Property Maintenance Official if they see signs of neglect
- Thomas Anzevino thanked the public for attending the hearing
- Lisa Montany of 33 West Magnolia Avenue said that there were 8 properties that have been subdivided. She asked the Board to increase the minimum lot size for subdivided one-family properties to prevent this from happening in the future
 - Board Attorney Ferraro advised that the zoning ordinance is drafted by the Mayor and Council and the Planning Board enforces the zoning ordinance
 - Mrs. Montany thought that Mayor Bolan would be present

Chairperson Panny invited Mr. Dawood to make his closing statement. He said that he would make sure that the property was cleaned up.

Vice Chairperson Anthony Klymenko made a motion to approve the subdivision.

Cynthia Petersen seconded the motion.

All eligible members voted in favor of the motion except Councilperson Ullman who abstained and Rick DeHeer who voted against the motion.

Informal Hearing None

Old Business

- Updated Land Use Fees
 - Cynthia Petersen asked that this be tabled until Board Recording Secretary Grunstra was in attendance
- Deadline for Board comments on the Draft Preliminary Investigation of the West Pleasant Avenue Area in Need of Redevelopment with Condemnation Study

New Business

- Rick DeHeer asked if the Board can recommend an increase in minimum lot size to the Mayor and Council

- Cynthia Petersen was a member of the Board previously and recalls that the Mayor and Council at that time did not recommend making that change because most of the properties in town would become non-conforming
- Vice Chairperson Klymenko asked if subdivided lots could be required to be a larger size
- Members of the Board were speaking over each other so the recording is not clear
- Chairperson Panny would like to know what is happening with the BMW dealership
- John Gargagliano believes that increasing the minimum size of a subdivided lot would lead to larger houses
- Rick DeHeer would like the Board to review all of the subdivision requirements
- When asked, Board Engineer Polyniak answered that the Board would need to review the master plan and zoning ordinance. He does not believe that the increasing the minimum lot size of subdivided properties would work as it may be discriminatory and zoning changes would be applied to all lots in the zone
- Thomas Anzevino feels that the government needs to respond to the public
- Vice Chairperson Klymenko said that the Board relies on the zoning ordinance
- Board Attorney Ferraro reminded the Board that the Governing Body makes changes to the zoning ordinance

Open Meeting to the Public

Closed Session None

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius.
 John Gargagliano seconded the motion.
 All eligible members present voted in favor of the motion.
 The meeting was adjourned at 9:22pm.

Respectfully submitted,

Tara Grunstra
 Planning Board Recording Secretary