

**MAYWOOD PLANNING BOARD
MINUTES
June 7, 2018 Closed Session #2018-07**

Vice Chairman Paul Kuhn made a motion to go into Closed Session. Chairman Frank Lichtenberger seconded the motion. All eligible members present voted in favor of the motion.

**BOROUGH OF MAYWOOD PLANNING BOARD
Closed Session Resolution # 2018-07**

BE IT RESOLVED by the Planning Board of the Borough of Maywood, pursuant to the provisions of the Open Public Meetings Act, that the Maywood Planning Board met in closed session to discuss the following subject matter(s): Pending litigation

which subject matter(s) is (are) permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

- Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law
- Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds
- Sub-section 3 involving disclosure of material that would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved
- Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions and negotiations thereof
- Sub-section 5 dealing with the acquisition of real property, the setting of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest
- Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law
- Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege
- Sub-section 8 concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof

() Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that the Planning Board of the Borough of Maywood
() Will return to open session after this meeting.
(X) Do not envision that they will return to open session after this meeting but reserves the right to do so.

Date of Passage: 6/7/18 Time: 10:02pm

Board Attorney Kara Kaczynski updated the Planning Board on the status of litigation between Empire Real Estate Holdings, Inc. and the Borough and Planning Board. The Joint Insurance Fund (JIF) counsel will defend most of the counts of the complaint while she will represent the Planning Board in the remaining counts. As such, JIF counsel and Board Attorney Kaczynski will co-counsel. She met with JIF Counsel to discuss the background of the complaint and Zoning Officer James Mazzer also attended. JIF counsel is preparing a response to the complaint.

Harry Hillenius advised the Board that earlier that day, in his role as Bergenfield Building Inspector, he had failed an inspection where On-the-Spot Construction was the contractor. The homeowner was concerned about the inspection failure since she had paid the contractor in full for the work that was done. She asked advice about cancelling her check but Mr. Hillenius declined to offer any advice on this subject. When he returned to the office after his inspections were complete, Mr. Hillenius' supervisor informed him that a complaint was made against him by On-the-Spot Construction alleging bias. He added that Zoning Officer Mazzer should take pictures of the current conditions.

Chairman Lichtenberger noted that Metro Ambulance continues to conduct business at the location. He asked Board Attorney Kaczynski if the court takes the illegal actions (i.e., jack hammering the curbs without permission) into consideration when reviewing the case. She explained that the court can decide one of three courses of action:

1. Court can agree with the Board's decision and deny the appeal
2. Court can remand the application back to the Board and the application process would restart so that the Board could revisit the application, which Chairman Lichtenberger reminded the Board has occurred in the past
3. Court could grant the appeal outright and overturn the Board's decision

With that discussed, Chairman Lichtenberger wanted to update the Board on the status of the COAH project. The planned May meeting was cancelled because there is an issue that was that the parties couldn't agree on. Board Attorney Kaczynski believes that Special Master Mary Beth Lonergan wants the Maine Evergreen property Townhouse (TH) District zoning density to increase to a level that that the Borough considers too high. Board Planner Michael Kauker

offered to add a 3rd story overlay option for the Restricted Commercial (RC) District on West Pleasant Avenue. Chairman Lichtenberger believes that 3rd story occupancy on West Pleasant Avenue is not appropriate and suggested to Board Planner Kauker to increase the unit density on Prospect Avenue. Board Attorney Kaczynski understands that the proposed Garden Apartment (GA) District Overlay does not appeal to Special Master Lonergan since it may attract more affluent tenants and not the low and moderate-income tenants which is the COAH goal.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary