

**MAYWOOD PLANNING BOARD
MINUTES
July 27, 2023**

A regular meeting of the Maywood Planning Board was held on Thursday, July 27, 2023 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 November 10, 2022. 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 7:31pm with the following members present: Councilperson Ryan Ullman (left @ 7:36pm), Chairperson Charlotte Panny, Secretary Gary Neumann, John Gargagliano, Harry Hillenius, Douglas Herrick, Derek Eisenberg, Thomas Anzevino and Rick DeHeer. Board Attorney Kara Kaczynski and Board Planner Michael Kauker were also present. John Dunlea of Neglia Engineering Associates attended on behalf of Board Engineer Gregory Polyniak.

Approval of Minutes None

Bills

Rick DeHeer made a motion to accept payment of the bills. Councilperson Ryan Ullman seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

1. 6/23/23 letter from Eric V. Timsak of Bergen County Department of Planning and Engineering Re: Henry Gonzales Andrade 774 Maywood Avenue No Further Action Required
2. 7/7/23 letter from Raymond J. Cywinski of Bergen County Soil Conservation District Re: Memorial Park Improvements Approval
3. 7/11/23 cover letter from Borough Clerk Barbara L. Dispoto with Introduced Borough Ordinances #12-23 and #13-23
4. 7/14/23 letter from City of Hackensack Deputy City Clerk Allison Saabye Re: Adopted Ordinance #28-2023 Amending Main Street Area in Need of Rehabilitation Redevelopment Plan
5. 7/14/23 letter from Board Engineer Gregory J. Polyniak Re: Maybrook Gardens II As-Built Review
6. 7/17/23 cover letter from Special Master Mary Beth Lonergan Re: Borough of Maywood Housing Element and Fair Share Compliance Hearing Master’s Report
7. 7/26/23 letter from Board Attorney Kara A. Kaczynski to Mayor and Council Re: Proposed Amendments to Application Checklist and Fee Schedule

Resolution

217 Realty, LLC
217 Hergesell Avenue
Block 122, Lot 1
Calendar #2022-11
Variance & Site Plan Applications

Variations:

- 1-Maximum Number of Sign Colors (3 colors maximum permitted vs. 10 colors proposed)
- 2-Minimum Rear Yard Setback (20’ minimum required vs. 11.45’ proposed/existing)
- 3-Maximum Lot Coverage (40% maximum permitted vs. 68% proposed/existing)
- 4-Limited Light Industrial Parking (58 parking spaces minimum required vs. 36 parking spaces proposed)

Harry Hillenius made a motion to memorialize the resolution and John Gargagliano seconded the motion. All eligible members present voted in favor of the motion.

Completeness Hearing None

Councilperson Ryan Ullman recused himself and left the meeting at 7:36pm.

Application Hearing

TRB Associates
145 West Passaic Street
Block 83, Lots 15 & 16
Calendar #2022-03
Variance & Site Plan Applications

Variations:

- 1-Use Variance
- 2-Minimum Front Yard Setback (25’ minimum required vs. 22.1’ proposed/existing)

Kevin Kelly of Kelly, Kelly, Marotta and Tuchman represents the Applicant, TRB Associates. He advised that the Applicant is seeking minor bulk variances which were mostly preexisting and a use variance to convert an office building to residential 3-unit apartment building. He noted that the subject property is in the A-1 Residential One-Family zone so there was a preexisting nonconforming use for the office building. He introduced Thomas O’Rourke who is the Applicant, engineer Thomas Skrable and architect Martin Santini who will also testify as the planner. He then summarized the bulk variances they are requesting relief from:

- Front yard setback (25’ minimum required vs. 22.1’ proposed/existing)
- RSIS waiver/variance for parking space size (9’ x 18’ required vs. 9’ x 17’ proposed/existing)
- EV parking spaces
 - He believes that the statute exempts dwellings of under 5 units
- Various checklist waivers such as water courses, topographic survey, wooded areas, spot elevation survey, sanitary sewer depiction, NJDEP permits, NJDOT permits, landscape plan, location of fire hydrants, environmental impact study)
 - He noted that Board Engineer Greg Polyniak did not object to approving the requested waivers per his engineering review letter

- He emphasized that no exterior work is proposed other than restriping the parking lot and landscaping

Board Attorney Kara Kaczynski advised that the Board Engineer can deem an application complete and has recommended the granting of the proposed waivers. She then confirmed that the Applicant noticed and published properly so that the Board has jurisdiction. She then marked the following exhibits:

- A-1: Application and supporting documents
- A-2: Notice and publication
- PB-1: Board Engineer Greg Polyniak's Engineering Review Revised 5/23/23

She concurs with Mr. Kelly's assessment that EV parking spaces are not required. She then swore in all the witnesses at one time.

Mr. Kelly called his first witness, engineer Thomas Skrable who was qualified and accepted. Mr. Skrable displayed the site plan dated 3/16/22, last revised 2/7/23. He described the existing conditions that the building is an office building and the lot is nearly 100% paved. He explained how they are proposing to change access by closing the eastern entrance and widening the western exit so that it can accommodate entering and exiting vehicles. He noted that the parking lot will be restriped to delineate the access and he identified the areas where landscape will be added. He added that the HVAC units will be screened by landscaping. He agreed to work with Board Engineer Polyniak to pick the actual species of landscape. Mr. Skrable noted that some impervious surface would be replaced with landscaping which would improve stormwater retention. He identified the location of two inlets and catch basin in the rear of the property which are to remain. He noted that the proposed curbing along the western side of the property will direct stormwater to remain on the property and not spill on the adjoining property. He pointed out the existing site lighting. He advised that they are proposing shielded wall mounted lights and agreed to provide additional information regarding the lighting levels. He confirmed that the lighting plan will comply with Borough ordinance and lighting will not spill onto adjoining properties. He then described the existing parking lot and parking space size and compared it to what is being proposed and what is required. Specifically, he explained that the existing and proposed parking paces measure 9' x 17' while 9' x 18' is required. He noted that they are proposing an ADA-accessible parking space which is 8' wide with an 8' wide striped area adjoining the parking space. He emphasized that the Applicant would provide sufficient parking for the site. He then detailed how traffic would circulate the property and described the turning template for an ambulance. He summarized the variances that are required for the proposed development. He also explained that they are proposing one 2-bedroom unit on the first floor and two 1-bedroom units on the second floor. He has discussed the proposed development with Erik Timsak of Bergen County Planning and Engineering and believes that the project will be exempted. He noted that no signage is proposed other than a stop sign and stop bar in the parking lot. He confirmed that bollards are proposed, as requested. He confirmed that the dumpster area is enclosed and screened.

Chairperson Charlotte Panny invited Board Engineer John Dunlea to ask questions of Mr. Skrable. Board Engineer Dunlea asked about waste collection and Mr. Skrable answered that the Applicant has agreed to private trash collection. Board Engineer Dunlea requested copies of the turning template that Mr. Skrable described previously. Mr. Skrable agreed to forward the turning template. Board Engineer Dunlea also requested copies of correspondence with Bergen County Planning and Engineering and Mr. Skrable agreed. Board Engineer Dunlea requested that parking space #8 and the adjacent striping be flipped and Mr. Skrable agreed to that change. Board Engineer Dunlea confirmed that there are no changes to the existing topography or drainage patterns proposed. Mr. Scrable added that the parking lot will be milled, paved and striped but the grading would not change and no soil movement is proposed.

Board Engineer Dunlea asked that should there be any off-site impacts resulting from the construction, the Applicant would be address it. Mr. Skrable agreed to that condition. Mr. Kelly noted that the Applicant intended to telescope the sanitary sewer line to ensure that it can manage capacity. Board Planner Michael Kauker recommended a balanced mix of coniferous trees and shrubs with heights and species depicted as part of the landscape plan. Mr. Skrable agreed.

Chairperson Charlotte Panny invited the Board members to ask questions of Mr. Skrable. Rick DeHeer noted the stop bar on the site plan and asked if the sign stating “No Left Turn” was accurate. Mr. Skrable apologized for not mentioning the sign and noted that the “No Left Turn” sign was requested by Bergen County Planning and Engineering. Mr. DeHeer confirmed that left turns into the property are permitted. He is concerned about the vehicle turning radius when the parking lot is full of tenants’ vehicles. Mr. Skrable described how a garbage or moving truck would navigate the parking lot. Mr. DeHeer asked that the maximum sized vehicle be added to the turning template and Mr. Skrable agreed. Mr. Kelly suggested adding a sign indicating the maximum sized vehicle permitted. Douglas Herrick has a similar concern about a fire truck but Mr. Skrable does not believe that the Fire Department would fight the fire from the parking lot. Chairperson Panny inquired if the residential properties on Lincoln Avenue would be affected by the proposed lighting and Mr. Skrable replied that the lighting would not spill onto the neighboring properties.

Chairperson Charlotte Panny invited the public to ask questions of Mr. Skrable. Fire Official Thomas Tuttle confirmed the driveway width would be 18’ and requested that it increase to 20’. Mr. Skrable agreed. Fire Official Tuttle inquired about the balcony height and advised that it would need to higher than 13.5’. Mr. Kelly advised that Mr. Santini would address the balcony height but agreed to comply. Fire Official Tuttle questioned the location of the no parking signs and fire lane. Mr. Skrable agreed to work with him on the locations. Fire Official Tuttle also requested copies of the turning template. Mr. Skrable offered to provide the turning template for the vehicle that Fire Official Tuttle recommends. They agreed to collaborate with each other.

Mr. Kelly called his next witness, Tom O’Rourke who is the property owner and Applicant. Mr. O’Rourke explained that he owns the property with his two brothers. They have owned the property since 1976 and have lived in Maywood since 1958. Mr. O’Rourke is a realtor and developer. He has observed that the demand for commercial real estate has collapsed. He has been unable to rent the office space which is why he would like to convert it to the residential use. He manages other multi-family residential developments in towns nearby. He advised that they will be utilizing a private hauler for trash and recycling collection. He has a landscaper and snow removal company selected. Typically, he stated that tenants would move in and move out on weekends. He noted that there is a storage space available on the first floor for tenants to use as they prepare to move in. He agreed to install fire sprinklers, if required. Regarding security, he intends to install an alarm system and guests would be buzzed in.

Chairperson Charlotte Panny invited the Board members to ask questions of Mr. O’Rourke. Douglas Herrick inquired if the Department of Community Affairs would require an annual inspection but Mr. Kelly believes that rule applies to multi-family dwellings of 4 or more units. He agreed to comply with all State regulations should they apply. Derek Eisenberg believes the rule is 3 or more units. Mr. O’Rourke agreed to comply. Fire Official Tuttle advised that the Fire Prevention Bureau annually inspects 1-family and 2-family homes that are not owner occupied and multi-family dwellings of 3 or more units. He reminded the Applicant that a Continued Certificate of Occupancy (CCO) is required prior to the tenants moving in every time a unit changes tenancy.

Chairperson Charlotte Panny invited the public to ask questions of Mr. O'Rourke. Board member John Gargagliano confirmed the loft size in the two second floor units. He asked about the ceiling height of the lofts and Mr. O'Rourke answered that the lofts have a ceiling height of 8'. Mr. Gargagliano has concerns that the lofts could be converted to a bedroom. Mr. O'Rourke stated that the lofts were intended to be a home office. Mr. Gargagliano understands that the lofts would have only one means of egress. He asked about the sprinkler system and Mr. Kelly deferred this question to architect Martin Santini.

Chairperson Charlotte Panny again invited the public to ask questions of Mr. O'Rourke but no one came forward.

Mr. Kelly called his next witness, architect and planner Martin Santini who was qualified and accepted. Mr. Kelly marked exhibit A-3 Planner's 7-Photograph Array of the Subject Property Existing Conditions. Mr. Santini described the existing uses surrounding the subject property; residential and commercial. He then described the existing building façade and parking lot. He noted that several cars from the adjacent auto repair business park over the property line onto the subject property. Mr. Santini displayed his architectural drawings dated 3/31/22, last revised 2/14/23 which was previously marked as exhibit A-1. He described the existing conditions of offices on the first and second floors and an existing attic space. He then explained the proposed development of converting the office spaces into residential units. He explained that they are proposing one 2-bedroom unit with an outdoor patio on the first floor and on the second floor, they are proposing two 1-bedroom units each with a spiral stairway leading to a loft and a "Juliet" balcony. Mr. Santini referenced Mr. Gargagliano's question on fire sprinklers and answered that the lofts would not be sprinklered per the International Residential Code (IRC) and the NJ Uniform Construction Code (UCC) Building Code. Regarding the proposed two balconies, he explained that they would project 18" from the façade and are 12' above grade which he does not believe would impact truck clearance accessing the parking lot. Mr. Kelly believes that Fire Official Tuttle advised that there should be no obstructions below 13.5'. Fire Official Tuttle provide the National Fire Protection Association (NFPA) code regarding the height of building projections and discussion ensued. Mr. Kelly asked Mr. Santini to address Mr. Gargagliano's concern that the lofts could become a bedroom. Mr. Santini believes the space is too small and the roofline is too steeply angled to allow the space to be used for sleeping. He believes that the loft would space would be used as a home office or a den. He stated that there is a demand for units that include a home office and commercial real estate is being converted into residential.

Board Attorney Kaczynski suggested inviting Board professional and Board members the opportunity to ask architectural questions prior to Mr. Santini providing his planning testimony. Board Secretary Gary Neumann asked if the existing windows satisfy the egress code. Mr. Santini answered that bedroom windows would satisfy the NFPA egress requirements. Mr. Gargagliano questioned the lofts having only one means of egress. Mr. Santini repeated the IRC and NJ UCC codes but Mr. Gargagliano believes that people may still use the space as a bedroom. He suggested adding walls or adding fire sprinklers to the kitchen. Mr. Santini has been in talks with Fire Official Tuttle about adding fire sprinklers to the public areas including the corridor spaces and stairwell. Mr. Santini repeated that the code does not require fire sprinklers inside the units. He then listed the building code requirements for fire separation. Mr. Gargagliano shared his experience as a professional firefighter of removing deceased persons from 3rd floor spaces that were being used as a bedroom. Mr. Santini agreed to discuss the issue with the Applicant.

Board Attorney Kaczynski invited the public to ask architectural questions prior to Mr. Santini providing his planning testimony. Fire Official Tuttle noted that building codes are written to the minimum requirements. He believes that tenants will use the lofts for sleeping and requested that a condition of approval be added that tenant leases include that loft spaces cannot be used for sleeping. Both Mr. Santini and Mr. Kelly agreed to that condition. Mr. Kelly added that Mr. O'Rourke would agree to adding fire sprinklers to the kitchens and lofts as a condition of approval.

Mr. Santini displayed his aerial photograph and tax map which he marked as exhibit A-4. He described the surrounding uses. He noted that the bulk "C" variances are all preexisting and minor in scope. Regarding the D-1 use variance, he explained that the Board could grant the variance for special reasons and there is no market for office space. He noted that the building already exists and can be easily adapted to accommodate the proposed use without changing the existing character. He stated that the site is appropriate for and can accommodate the proposed use. He noted that the existing on-site parking is adequate for the proposed use and would require less vehicle movements. He reminded the Board that they are proposing to remove asphalt paving to create landscaped areas. He believes that the proposed use is more compatible with the surrounding uses in the A-1 One-Family Residential zone. He mentioned that the architectural character of the existing building will be preserved and the proposed improvements will provide a desirable visual environment in the immediate neighborhood. He said the proposed development would provide additional housing options in the community. Lastly, he explained that the goals and objectives of the Borough master plan would be upheld specifically by lessening traffic and congestion, promoting the public health, safety and welfare, encouraging the most appropriate use of the land with reasonable consideration towards conserving the values of properties and preserving the character of the district. He believes that the variances can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zoning plan and zoning ordinance. He feels the benefits of the development would far outweigh the detriments. He added that the variances being sought are not inconsistent with the intent and purpose of the master plan. Lastly, he considers the development to advance the purposes of the Municipal Land Use Law (MLUL) as the site is uniquely situated for the proposed use and meets the positive and negative criteria required for a use variance.

Chairperson Panny invited Board Planner Michael Kauker to ask questions of Mr. Santini. Board Planner Kauker agreed with Mr. Santini's assessment of the special reasons and positive and negative criteria. He noted that the property is oversized for the A-1 zone which can accommodate the use. He believes that the building has a residential appearance and design which allows it to be retrofitted to accommodate the proposed residential use. He believes that the size of the building would require 18 parking spaces were it to be used as an office building which is a preexisting nonconformity. He explained that this nonconformity goes away with the proposed use change. He agreed with Mr. Santini's testimony that the proposed development complies with the Borough master plan and he added that it supports the Borough Housing Element and Fair Share Plan regarding maintaining West Passaic Street as residential.

Chairperson Panny invited the Board members to ask questions of Mr. Santini. Derek Eisenberg confirmed that no parking spaces were leased to the neighboring auto repair shop. Mr. Santini noted that landscape and fencing will be added along the property line adjacent to the auto repair shop to delineate the property border.

Chairperson Panny invited the public to ask questions of Mr. Santini. Fire Official Tuttle clarified that the fire alarm system would be upgraded. He requested that the annunciator panel be located by the front and rear entrances. Mr. Santini agreed to this request. Derek Eisenberg asked about the existing Gentry Real Estate monument sign. Discussion ensued and a short break was taken at 8:57pm.

The hearing resumed at 9:01pm with all members present.

Mr. Kelly advised that the existing sign will be removed and the Applicant will propose a code compliant sign. He then summarized the application and listed several conditions of approval that were agreed to:

- Besides adding fire sprinklers to the common spaces such as the corridor and stairwell, fire sprinklers would be added to the kitchens and loft spaces
- Locating the annunciator panels to the front and rear entrances per Fire Official Tuttle's request
- Telescoping the sanitary sewer line to ensure that it is adequate
- Submittal to Bergen County Planning and Engineering for approval but he expects that the project will be exempt
- Adding the "No Left Turn" sign which was requested by Bergen County Planning and Engineering
- Increasing the westerly drive aisle by 2' to 20' in total
- Compliance with all comments from Board Engineer Polyniak's Engineering Review Revised 5/23/23

Chairperson Panny confirmed with Mr. Santini that the building façade would not change. He added that egress windows would be added as required by code and reminded the Board of the proposed "Juliet" balconies. Mr. Kelly noted that they would include the stipulation that barbeque grills would not be permitted on the balconies but admitted that the size would be too narrow for a grill to fit. He mentioned that another condition of approval would be that the tenant lease would prohibit sleeping in the loft space. He stated that another lease condition would be that laundry would not be permitted to dry on the balcony.

Chairperson Panny opened the hearing to the public for comment but no one came forward.

Board Attorney Kaczynski added the conditions of approval not previously listed by Mr. Kelly:

- Applicant will work with Board professionals regarding the species of the proposed landscaping
- Applicant will post signage regarding the maximum sized vehicles permitted in the parking lot
- Fire Official Tuttle will provide the vehicle specs for the turning template
- Applicant will provide the turning templates
- Applicant will move the striping on parking space #8 from the west to the east side of the space
- Applicant will remove the two "Juliet" balconies if they cannot be higher than 13.5' from grade when the driveway is beneath (west side)
- Applicant will register with the DCA and apply for CCO for any tenancy changes
- Applicant will ensure that parking spaces are restricted to tenants
- Applicant will remove Gentry Real Estate signage

She noted that there was testimony regarding the lighting on the east side of the property and if it would be wall mounted or bollards. Board Engineer John Dunlea believes that the Applicant will be providing lighting spot elevations to determine if light would spill onto the adjacent property which is prohibited.

Mr. Skrable is recommending removing the wall mounted lighting on the east side and replacing it with bollards since there is better screening. Board Engineer Dunlea agreed with this change. Fire Official Tuttle reminded the Board that there is a condition of approval that fire zone signage be added. Rick DeHeer asked if the turning templates would be provided before the Board votes on the application. Board Attorney Kaczynski offered to add a condition that the turning templates would be provided and should the Board Engineer not be satisfied, the Applicant would be required to return to the Board. Mr. Kelly agreed to work with the Board Engineer and requested that the Board vote tonight. Board Attorney Kaczynski suggested that the Applicant arrange the time of day schedule and the size of the garbage truck with their private hauler.

Douglas Herrick made a motion to approve the application with the conditions of approval listed and Derek Eisenberg seconded the motion. All eligible members voted in favor of the motion.

Informal Hearing None

Closed Session None

Old Business

1. Cancellation of 8/3/23 & 8/24/23 meetings
 - a. The Board discussed the upcoming hearing schedule
 - b. No hearings were scheduled for the 8/3/23 meeting and it was unlikely that an application would be deemed complete in order to notice for the 8/24/23 meeting
 - i. Douglas Herrick made a motion to cancel the 8/3/23 and 8/24/23 meetings and Chairperson Panny seconded the motion
 - ii. All eligible members voted in favor of the motion

New Business None

Open Meeting to the Public

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Rick DeHeer 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