

**MAYWOOD PLANNING BOARD
MINUTES
July 7, 2016**

A regular meeting of the Maywood Planning Board was held on Thursday, July 7, 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, Vice Chairman Paul Kuhn, Secretary Charlotte Panny, Councilman Rick DeHeer, John Montel, Harry Hillenius, Charles Goebel, Ken Terzo and Anthony Klymenko. Also present were Zoning Officer James Mazzer, Board Attorney Kara Kaczynski and Board Engineer Tom Lemanowicz.

Approval of Minutes

Vice Chairman Paul Kuhn made a motion to accept the minutes from the June 23, 2016 meeting. Secretary Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

Bills None

Correspondence

- 6/30/16 letter from Thomas K. Hynes, counsel for Marilyn J. Machlin Re: Completeness Review Response
- 7/1/16 letter from Tom Lemanowicz Re: Marilyn J. Machlin Completeness Review
- 7/5/16 letter from Thomas K. Hynes, counsel for Marilyn J. Machlin Re: Public Notice and Waiver List
- 7/6/16 letter from Thomas K. Hynes, counsel for Marilyn J. Machlin Re: Certification of Mark Diverio and Historic Preservation Letter

Resolution None

Hearing **Marilyn J. Machlin**
326 Maywood Avenue
Block 118, Lot 4
Calendar #2016-07
Minor Subdivision & Variance Application

Thomas K. Hynes represents the applicant, Marilyn J. Machlin and confirmed that the application was deemed complete. He noticed for the 5/5/16 meeting and the application was carried without requiring additional notice by the Board at each meeting since. An adjoining property owner, Mark Diverio at 21 East Magnolia Avenue, was left off the 200 foot list and was not noticed at the same time as the other property owners. Mr. Hynes spoke with this property owner directly and Mr. Diverio signed a certification which was marked as Exhibit 1-A. A 7/1/16 letter from New Jersey Historic Preservation Office was marked as Exhibit A-2. The letter states that the New Jersey Historic Preservation Office had no jurisdiction over the property since it is privately owned. Mr. Hynes then provided an overview of the application. The property is a 21,321 square foot lot on the corner of Maywood Avenue and East Magnolia Avenue located in the A1 Residential zone which permits one-family residential structures. The applicant would like to subdivide the lot into 2 parcels:

- Lot 4.01 – 15,752 square foot lot consisting of the main home
- Lot 4.02 – 5,568 square foot lot consisting of the garage/medical office currently sits

There was a variance granted in 1960 to permit the use of the garage as a medical office as an accessory to the home. The resolution could not be found but the approval was catalogued as Zoning Board Case No. 6014. Mr. Hynes acknowledged that the use variance for the garage/medical office would be vacated if the minor subdivision is granted. He noted that this would be included in the subdivision deed so there would be no question in the future. A front yard setback variance will be required for both lots if the property is subdivided:

- Lot 4.01 – 6.80' vs. 25' required
- Lot 4.02 – 20.38' vs. 25' required

Although the entrance of the original home faces East Central Avenue, East Magnolia Avenue is considered the front and the setback variance is based off of this orientation. Mr. Hynes believes that the home was constructed in 1780 which predates the East Magnolia Avenue roadway. Councilman Rick DeHeer questioned why the applicant is seeking to subdivide the property. Mr. Hynes replied that if all of the structures were razed, the lot could be subdivided into 4 lots. However, the applicant would prefer to preserve the historic home and only subdivide the garage property.

The first witness was the applicant's engineer, Steven Koestner of Koestner Associates in Hackensack, NJ. Mr. Koestner has appeared before this Board previously and was accepted as an expert. He proceeded to discuss the Minor Subdivision Plan dated 3/4/16 with the last revision date of 6/24/16. He summarized the property zone (A1 Residential) and the existing lot size (21,321 square foot). The applicant is proposing to subdivide the property into two lots as previously stated by the applicant's attorney. Mr. Koestner explained that the minimum lot size for the A1 Residential zone is 5,000 square feet and both the proposed lots would exceed the minimum. The property has pre-existing nonconforming front yard setbacks and a variance would be required for both lots if the property is subdivided.

At the suggestion of Board Engineer Tom, Lemanowicz, building heights were determined as:

- Main home (Lot 4.01) – 30.04' in height
- Garage/medical office (Lot 4.02) – 22.43' in height
- Maximum height allowed – 35'

Based on Board Engineer Lemanowicz's 7/1/16 completeness review letter, Mr. Koestner would incorporate all of the technical comments into the final plan. Board Engineer Lemanowicz noted that there are several completeness waivers that need to be granted:

- B(7) Requires submission of NJDEP documents relating to wetlands
 - The Board Engineer takes no exception to a waiver for this item
- C(25) Requires existing street width to be noted
 - The Board Engineer takes no exception to a waiver for this item
- C(31) Requires plans profiles of existing and proposed utilities
 - The Board Engineer takes no exception to a waiver for providing utility profiles
- C(33) Requires a Soil Erosion and Sediment Plan
 - The Board Engineer takes no exception to a waiver for this item
- C(37) & C (38) Requires depictions of trees and landscaping
 - The Board Engineer takes no exception to a waiver for this item

Mr. Koestner then identified a revision to the Zoning Review Table Note #5. Since Lot 4.02 is proposing a driveway, the impervious coverage would increase from 15.56%. After some calculations, Board Engineer Lemanowicz estimated that the lot coverage for Lot 4.02 would be approximately 19.8% which would fall below the 30% lot coverage maximum. Mr. Koestner agreed with the calculation.

There were no questions for Mr. Koestner from the public or the Board.

The next witness was the applicant's planner, Gene Rotonda of Rotonda Engineering in Ramsey, NJ. Mr. Rotonda provided his credentials and was accepted as an expert. He reviewed all of the documents associated with the application and visited the site. Mr. Rotonda believes that the proposed subdivision offers several benefits. The first benefit is that the use variance for the medical office is vacated which removes a nonconformity. He reiterated Mr. Hynes previous statement that if all of the structures on the property were removed, the lot could be subdivided into possibly 4 lots. Additionally, he thinks that the proposed subdivision would benefit the community since it will preserve the historically significant house maintaining the character of the neighborhood. Although a driveway will be added to Lot 4.02, there will be no noticeable change to the neighborhood. Mr. Rotonda noted that besides the removal of a nonconformity, there are additional benefits to the neighborhood if the medical office reverts back to a residential use. There would be less vehicular traffic with residential use and it is the zoning intention. He believes that the proposed subdivision does not substantially impair the intent and purpose of the municipal zoning plan and does not cause detriment to the public good.

There were no questions for Mr. Koestner from the public.

Charles Goebel asked for clarification on the number of lots that could be subdivided from this property. Mr. Rotonda replied that since the property is 21,321 square feet and the minimum lot size is 5,000 square feet, there is a potential for 4 lots but an engineer would need to layout the subdivision plan to finalize the number. Ken Terzo wanted clarification on the reason that the applicant is proposing the subdivision. Mr. Hynes explained that the pending Board approval, both properties are under contract for purchase. Anthony Klymenko asked about converting the

garage/medical office to a residence. Mr. Hynes answered that residential construction plans would need to be submitted to the Building Department before a Certificate of Occupancy (CO) could be issued. He noted that the current water supply is from the main house and Lot 4.02 would need to have a separate water supply line.

Chairman Lichtenberger asked for a description of the garage/medical office. Mr. Hynes explained that there are three rooms on the first floor; waiting room, clerical office and medical examination room. The second floor is one large space that was used as a conference room. He believes that the garage/medical office could be converted to a small residence. John Montel asked if the existing garage/medical office would need to be expanded in order to be converted to a residence and Mr. Hynes does not believe that it would need to be expanded but deferred to the contract purchaser. Anthony Klymenko asked to clarify which utilities for garage/medical office are currently separate from the main house. Mr. Hynes replied that electric and gas are separate from the main house and only the water supply is connected to the main house. The water supply from the main house will need to be disconnected and a new water supply line will need to be run to the garage/medical office. Board Engineer Lemanowicz noted that this would need to be a condition of approval and Mr. Hynes agreed.

Councilman DeHeer asked for clarification of the statement about the property being large enough to potentially subdivided into four lots. He inferred that statement as an ultimatum. Mr. Rotonda clarified his previous testimony by explaining that a developer could raze the current structures and subdivide the property but that not is not what the applicant proposes. He believes that subdividing the property and returning the garage/medical office to a residential use is beneficial for the neighborhood. Board Attorney Kaczynski added that if a developer were to raze and subdivide the property, they would be required to meet the setback requirements or go before the Board. Harry Hillenius pointed out that the garage/medical office would need a kitchen to be considered a dwelling. He asked about the sanitary line and Mr. Hynes confirmed that there is an existing separate sanitary line noted on the plans. Vice Chairman Paul Kuhn noted that the curb cuts would require Borough approval. Board Attorney Kaczynski asked if there was any other historical preservation jurisdiction that would need to be notified of the subdivision and Mr. Rotonda replied that he did not believe so. Board Engineer Lemanowicz questioned Zoning Officer Mazzer that a new CO would be needed for the garage/medical office for any future use. The structure on Lot 4.02 would need to pass a CO inspection conducted by Mr. Mazzer.

Chairman Lichtenberger noted that if the purchaser of the garage/medical office property wishes to expand the structure, a variance would need to be granted by the Board since the property is nonconforming. Board Attorney Kaczynski suggested that any use outside the permitted zone uses would need to come before the Board as a condition of approval. Board Engineer Lemanowicz believes the renovation of the interior would require construction permits and a new CO. Charles Goebel asked if there were two separate purchasers for each proposed lot and Mr. Hynes answered that there are two separate contracted buyers. Vice Chairman Kuhn inquired if there was sufficient vehicle parking for each proposed lot. Board Engineer Lemanowicz replied that each proposed lot would have space for the required 2 parking spaces. Harry Hillenius asked how the garage/medical office property is being sold. Mr. Hynes replied that the contract of sale for this property is subject to this subdivision as a one-family residential

lot. Charles Goebel asked what the CO requirements are since the garage/medical office property is a potential one-family home. Mr. Mazzer answered that besides installing a new kitchen, each residence would need to have separate utilities as well as heating, hot water and various other requirements.

Chairman Lichtenberger opened the hearing to public input.

Kate Knoop lives at 170 Prospect Avenue in Hackensack. She is the contracted buyer for the main house property. She explained that she does not plan to alter the home and is anxious to move in so that she can register her son for kindergarten.

Mark Diverio lives at 21 East Magnolia Avenue. His property is across the street from 326 Maywood Avenue. He is in favor of the subdivision and would like to see the garage/medical office convert to a residence.

Robert Dibonis lives at 30 East Magnolia Avenue. His property is next door to the garage/medical office property. He is the contracted buyer for the garage/medical office property. He intends to convert it to a small home and does not plan to enlarge the structure. Board Attorney Kaczynski asked Mr. Dibonis if he planning to merge the two adjacent properties and he replied that he was not. She asked if he would accept the requirement that the two lots not merge as a condition of approval and he agreed. She said that this language would be included in the subdivision deed and he agreed.

Chairman Lichtenberger closed the public comment portion of the hearing. He expressed his appreciation that the two structures would not be razed by the contracted buyers. Although there would be a front yard setback variance required for the subdivision, the main house predates the East Magnolia Avenue roadway.

Board Attorney Kaczynski summarized the conditions of application approval:

- Bergen County Planning Board approval or exemption
- Approval of any curb cuts by the Mayor and Council
- The filing of subdivision deeds that would include the following language:
 - (1) no merger of new Lot 4.02 with Lot 5 without approval by the Planning Board;
 - (2) no use of new Lots 4.01 and 4.02 or expansion of the existing structures thereon except as permitted in the A1 Zone and by the Borough Code without approval by the Planning Board; and
 - (3) the use variance granted pursuant to Case No. 6014 relative to the garage/medical office would be vacated
 - The subdivision deed shall be presented to the Board Attorney and Board Engineer for review and approval prior to recording
- The deeds transferring title to new Lots 4.01 and 4.02 shall include the above language of the subdivision deed
- All completeness waivers noted within the 7/1/16 completeness letter of Board Engineer Lemanowicz are granted
- All technical comments noted within the 7/1/16 completeness letter of Board Engineer

- Lemanowicz are incorporated into the approval and shall be addressed by the Applicant
- The historic structure shall remain on new Lot 4.02
- The water utility connections associated with the new Lot 4.02 shall be disconnected and removed as noted on the subdivision plan
 - Any future use of the new Lot 4.02 shall be subject to the installation of all water connections as approved by the Board, if necessary, and the securing of all necessary permits and completion of all necessary inspections relative thereto
- The water connection from new Lot 4.01 to new Lot 4.02 shall be disconnected and removed

Harry Hillenius made a motion to approve the minor subdivision and variance application with the conditions above. Vice Chairman Paul Kuhn seconded the motion. All members present voted in favor of the motion.

Informal Hearing None

Old Business None

New Business None

Open Meeting to the Public None

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Ken Terzo seconded the motion. The meeting was adjourned at 8:42pm.

Respectfully submitted,

Tara Grunstra
 Planning Board Recording Secretary