

## MAYWOOD PLANNING BOARD

### MINUTES

May 28, 2015

A regular meeting of the Maywood Planning Board was held on Thursday, May 28, 2015 in the Council Chambers of the John A. Steuert, Jr. Municipal Complex, 15 Park Avenue, Maywood, New Jersey at 7:30 P.M. “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 11, 2014. 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 7:30pm with the following members present: Chairman Frank Lichtenberger, Vice Chairman Paul Kuhn, Secretary Charlotte Panny, Harry Hillenius, John McManus, Ken Terzo and Anthony Klymenko. Also present were Zoning Officer James Mazzer, Board Attorney Kara Kaczynski and Board Engineer Tom Lemanowicz.

**Approval of Minutes:** John McManus made a motion to accept the minutes from the May 7, 2015 meeting. Vice Chairman Paul Kuhn seconded the motion. All eligible members present voted in favor of the motion.

**Bills:** Vice Chairman Kuhn made a motion to accept payment of the bills. Secretary Charlotte Panny seconded the motion. All members present voted in favor of the motion.

#### **Correspondence:**

- Rutgers Continuing Studies 15<sup>th</sup> Annual Current Issues in Planning & Zoning Conference June 12, 2015 @ Pacific Concord Hotel (formerly The Sheraton) Eatontown, NJ
- 5/15/15 letter from James E. Jaworski to Kara Kaczynski – Re: Requesting the Fitness & Wellness of Hackensack, LLC application be postponed until the 7/2/15 meeting in order to discuss the traffic analysis
  - James E. Jaworski here on behalf of the applicant explained that the traffic survey would not be ready in time to provide it to the Board Engineer two weeks prior to the 6/4/15 meeting and would like to adjourn the application to the 7/2/15 meeting. He has been in contact with Kin Properties and they confirmed that the Sears lease expires in December 2016. Once the lease expires, they plan to level the building immediately and begin remediation. Mr. Jaworski has requested permission to access the Kin Property for survey purposes and Kin responded that they will look to see if they have an existing survey.
  - Chairman Frank Lichtenberger explained that the Fitness & Wellness of Hackensack is responsible for the current situation. Based on the future membership goals and with the possible development of Phase 2, vehicle traffic will undoubtedly increase. While the Board is pleased with the success of the Fitness & Wellness Center, Howcroft Road access does not make sense. The

most viable option is creating access through Beech Street. The applicant's engineer Andrew Missey testified that creating Beech Street access was achievable. The Board wishes the applicant to pursue this option and to make it a priority over the suggestion of Howcroft Road beautification.

- Mr. Jaworski explained that the development of a Beech Street roadway would require the cooperation of Kin Properties for an easement or to purchase the necessary property. He and Kin Properties' counsel have been in contact. The first 100 feet of the Beech Street roadway is already municipal right-of-way. He will communicate the Board's desire to immediately pursue the Beech Street roadway with Kin Properties but he suspects that they will want to wait until they have secured a developer for the property.
  - Mr. Jaworski reminded the Board of the Howcroft Road improvement project that the applicant is willing to fund. He also explained that his client would leave the bond in place. He suggested that the bond could be used for the Beech Street extension. Mr. Jaworski stated that Hackensack Fitness & Wellness wants to be a good partner with Maywood and cited the Phase 2 plan as proof of their commitment.
  - Chairman Lichtenberger explained that the Board is being patient by not closing Howcroft Road but expects to see progress being made on the Beech Street extension. Board Attorney Kara Kaczynski offered to follow-up directly with counsel on the next steps.
  - The applicant requested an adjournment to the 7/2/15 meeting. However, the Maywood Fireworks are scheduled for that night and most of the Board members are unable to attend that meeting. As such, a motion to adjourn the application without need to notify to the 7/23/15 meeting was made by Secretary Panny and seconded by Ken Terzo. All eligible members present voted in favor of the motion.
- 5/22/15 letter from Kevin P. Kelly to Frank Lichtenberger – Re: Petrigliano 1978 Variance Application, letter from seller & 5/4/78 *Our Town* article

**Resolutions:** None

**Hearing:** **Lisa Petrigliano**  
33 West Magnolia Avenue  
Block 121, Lot 28  
**Calendar # 2015-05**  
**Variance Application**

Chairman Lichtenberger confirmed that everyone on the Board received the 5/22/15 letter from Kevin P. Kelly to Frank Lichtenberger – Re: Petrigliano 1978 Variance Application, letter from seller & 5/4/78 *Our Town* article. Board Attorney Kaczynski suggested that the documents be accepted into evidence:

Exhibit 1A: Site Plan Revised 5/26/15

Exhibit 2A: Notice of Appeal Board of Adjustment Application dated 4/27/78 & Letter from Seller Shirley Bougere dated 4/25/78

Exhibit 3A: 5/4/78 *Our Town* article

In a letter dated 5/20/15, Board Engineer Tom Lemanowicz deemed the application incomplete and listed the changes and additional information that he needed. At the start of this meeting, the applicant provided new site plans that addressed some of those issues. Board Engineer Lemanowicz listed the completeness waivers that the Board needed to grant in order to vote on the application:

- B7
- B8
- B10
- C7
- C9
- C12
- C17
- C18
- C19
- C24
- C39
- C46

Board Engineer Lemanowicz also recommended that the Board grant waivers for completeness purposes on the following items but require them on the final plan that is submitted to the Building Department should the Board vote favorably on the application:

- C14: Space for signatures of Chairman and Secretary of the Board
- C25: Location, names and widths of all existing and proposed streets on the property within 200 feet of the tract
- C29: Locations of all existing wells and septic tanks
- C31: Requires the depiction of existing and proposed utilities
- C33: Soil Erosion and sediment control plan
- C34: All areas to be disturbed by grading or construction
- C37: Wooded areas indicating predominant species and size
- C38: Locations of trees six inches or more in diameter, as measured one foot above the ground level, outside of wooded area, designating species of each
- C42: The outside dimensions of all existing and/or proposed buildings
- C43: Storm drainage plan showing location of inlets, pipes, swales and other storm drainage facilities, including roof leaders, indicating existing and proposed runoff calculations
- C47: Existing and proposed sanitary sewerage disposal systems

Kevin Kelly of Kelly, Kelly, Marotta & Lafferty, LLC counsel on behalf of the applicant, Lisa Petrigliano-Montany for the property known as Block 121, Lot 28, 33 West Magnolia Avenue. He confirmed that the additional information that Board Engineer Lemanowicz requested will be provided should the Board vote favorably on the application. Vice Chairman Paul Kuhn made a motion to grant the waivers as outlined by the Board Engineer and Secretary Panny seconded. All eligible members present voted in favor of the motion.

Tom Lemanowicz was sworn in stating his previous and future testimony as the truth.

Lisa Petrigliano-Montany was reminded that she was still under oath. Mr. Kelly explained that the application is for a D variance seeking to expand a preexisting nonconforming use in a zone, a two-family home in a one-family zone. At the previous meeting, the Board was attempting to determine when the home was converted from a one-family to a two-family. He then went on to detail Notice of Appeal Board of Adjustment Application dated 4/27/78 & Letter from Seller Shirley Bougere dated 4/25/78 and the 5/4/78 *Our Town* article. Based on this information, Chairman Lichtenberger confirmed that the Borough approved the property as a legal two-family home in 1978. Lisa Petrigliano-Montany also clarified the basement living space was in place prior to the Petrigliano family purchasing the home in 1969 and will be removed as part of this proposed expansion.

Albert F. Zaccone, 6 Casson Lane in North Haledon was sworn in. He is a licensed architect and a licensed professional planner. He has appeared before the Board previously and was accepted as an expert. The goal of the renovation is to expand the first floor of the home and make it ADA compatible for the applicant's parents to move in. He described the project in detail:

- Removed all partitions and fixtures in the basement making it suitable for only mechanicals and storage
  - Access from the side yard for servicing mechanicals
  - Access from the first floor to basement storage
- Expand the first floor to add a bedroom, great room, and two bathrooms
  - All work will be ADA compliant in order to allow the applicant's parents with mobility limitations free access to move around the first floor
- Adding a handicap ramp on the side of the home from the driveway

Ken Terzo questioned that the bathroom off of the new bedroom as handicap accessible but Mr. Zaccone confirmed that it would be ADA compliant. He also confirmed that no dimensional variances are triggered by the expansion. Two D variances are required: two-family in a one-family zone is a preexisting nonconformity that is being expanded and preexisting nonconforming structure that is being expanded. Mr. Zaccone believes that it meets the positive and negative criteria for the variance as it is uniquely situated for the proposed use that is being expanded. In his opinion, this application meets the criteria necessary for the Board to grant use variance relief under D1 and D2. He verified that the applicant will provide all of the items on the Board Engineer Lemanowicz's list required for a final plan:

- C14
- C25
- C29
- C31
- C33
- C34
- C37
- C38
- C42
- C43
- C47

Should the storm drainage plan call for a seepage pit, the applicant is prepared to install one.

Board Engineer Lemanowicz asked about the new interior staircase on the first floor leading to the basement and the existing staircase off the driveway. Mr. Zaccone explained that the existing staircase off the driveway will be altered to lead only to the basement and no longer access the first floor. He further discussed how the basement will be separated into two spaces; one part for mechanicals and the other part for storage. The exterior doorway will lead to the mechanical zone and the interior stairs will lead to storage. The AC units will be moved closer to the front of the house to allow for the ramp.

John McManus requested that the final plans indicate the footprint of the mechanicals in the basement. He is concerned that the separate entrance would allow for the basement to be developed into a third unit in the future. Mr. Kelly offered to make that a condition of occupancy. The concern by the Board is not for the current owners but more so for future owners. Board Attorney Kaczynski suggested that filing a recorded deed restriction but Mr. Kelly felt that would make the home difficult to sell in the future. Board Attorney Kaczynski offered to record a copy of resolution for approval as a compromise. Mr. Kelly felt that was a good solution. Anthony Klymenko offered that eliminating the exterior doorway and allowing basement access only through the interior of the home would be a good solution. An opening in the basement from the storage area to the mechanical area would need to be created. Vice Chairman Paul Kuhn concurred with Anthony Klymenko. Mr. Zaccone agreed to make that change. Board Engineer Lemanowicz asked about the Variance Application for A and D variances. Mr. Kelly advertised for both but confirmed that they are seeking two D variances only.

The applicant Lisa Petrigliano-Montany confirmed that the exterior door leading to the basement will be removed. Zoning Officer James Mazzer was sworn in and felt that closing off the exterior door leading to the basement makes sense. He confirmed that new plans would need to be submitted. Ken Terzo clarified the yard coverage. John McManus asked about the style of home and Mr. Zaccone verified that is a craftsman. Harry Hillenius questioned the basement access and Mr. Zaccone confirmed that an opening will be created connecting the storage and mechanical areas.

Board Attorney Kaczynski suggested outlining the variances and approvals. Board Engineer Lemanowicz explained that the D2 variance is to expand a preexisting nonconforming use as a two-family in a one-family zone. There is an existing nonconforming situation with respect to the height; the ordinance allows for a half story to be 60% or less of the floor area below it however the 3<sup>rd</sup> floor is 67% of the floor area below it. While this addition is not part of this application, it should be noted as it is an expansion of a nonconforming structure. Vice Chairman Paul Kuhn made a motion to approve the application with the site plan changes, stipulation to record the resolution, the C of O restriction and eliminating the exterior side door that leads to the basement. Anthony Klymenko seconded the motion and all eligible members voted in favor of the motion.

**Informal Hearing:** None

### **Old Business:**

- 4/21/15 memo from Kara Kaczynski to Maywood Planning Board – Re: Potential Amendments to Chapter 209 of the Borough of Maywood Land Use Ordinance
  - Sign ordinance tabled from the 5/7/15 Board meeting
    - Adjourned to the 6/4/15 Board meeting
- Chairman Lichtenberger wanted to discuss the status of the Maywood Rx Development/Walgreens
  - Board Attorney Kaczynski recused herself from the discussion
  - Chairman Lichtenberger contacted the Board Attorney of Record Brian Giblin
    - Mr. Giblin confirmed with the Maywood Rx Development/Walgreens attorney Holly Schepisi that the application will not be presented to the Board
    - Ms. Schepisi is meant to send a letter to that effect but it has not been received to date
    - Mr. Giblin suggested drafting a resolution dismissing the application without prejudice
      - Board Attorney Kaczynski offered to draft the minor resolution pending receipt of Ms. Shepisi's letter
      - Board Attorney Kaczynski suggested that Board Attorney of Record Brian Giblin draft a letter to Ms. Shepisi advising that the Board will not act until they receive a written document formally withdrawing the application
    - Board Engineer Lemanowicz clarified that the application was deemed complete but was advised by the applicant's engineer that the application was being withdrawn
- Zoning Officer Mazzer updated the Board on the status of Maria Revello's property at 106 Maywood Avenue
  - All partitions and fixtures have been removed from the garage
  - PSE & G and United Water have cut service from the main
  - C of O inspection is scheduled

### **New Business:**

- Board Attorney Kaczynski suggested taking a vote on cancelling the 7/2/15 meeting as it conflicts with the Borough fireworks. Ken Terzo made a motion to cancel the 7/2/15 Planning Board meeting and was seconded by Paul Kuhn. All members present voted in favor of the motion

**Open to the Public:** None

**Adjournment:** A motion to adjourn was made by Harry Hillenius. Ken Terzo seconded the motion. The meeting was adjourned at 9:05pm.

Respectfully submitted,

Tara Grunstra  
Secretary