

**MAYWOOD PLANNING BOARD
MINUTES
August 1, 2019**

A regular meeting of the Maywood Planning Board was held on Thursday, August 1, 2019 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 22, 2018. 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. 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: Chairman Frank Lichtenberger, Vice Chairperson Charlotte Panny, Gary Neumann, Paul Kuhn, John Montel, Harry Hillenius, Rick DeHeer, Peter Cicarelli and Secretary Anthony Klymenko. Board Attorney Kara Kaczynski and Board Engineer Tom Lemanowicz were also present.

Bills

Paul Kuhn made a motion to accept payment of the bills. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

- 7/26/19 letter from Board Engineer Tom Lemanowicz Re: Empire Real Estate Holdings Change of Tenant
- 8/1/19 letter from Board Attorney Kara Kaczynski Re: Empire Real Estate Holdings Change of Tenant

Resolution #1

200 Route 17, LLC
200 Route 17 South
Block 125, Lots 3 & 4
Calendar #2018-10
Variance & Site Plan Applications

Harry Hillenius made a motion to approve the resolution as written and Vice Chairperson Charlotte Panny seconded the motion. All eligible members present voted in favor of the motion.

Resolution #2

Master Plan Housing Element and Fair Share Plan

Rick DeHeer made a motion to approve the resolution as written and Gary Neumann seconded the motion. All eligible members present voted in favor of the motion.

Peter Cicarelli recused himself from the application and stepped down from the dais.

Hearing

PSE&G Substation Expansion

186 West Central Avenue

Block 124, Lots 80-91

Calendar #2019-06

Variance & Site Plan Applications

Glenn Kienz of the Weiner Law Group represents the applicant, PSE&G. The applicant appeared previously on 6/6/19 when several questions arose during the testimony. He would like to answer those questions prior to continuing with testimony. The new eastern gate will only be used in emergency situations although it will be utilized during construction. The construction fence along the front of the property will not extend into the right-of-way so the sidewalk will be accessible. The four houses purchased for the expansion can be used by Borough emergency services for training drills. The applicant has made arrangements with the Borough to have parking for workers during construction at the Municipal Pool. There will be no pile driving. Adequate sight distance at the corners of the property will be maintained. A pest control program will be on-site. He believes that taxes will increase on the four properties purchased based on the proposed improvements. Chairman Lichtenberger noted that the Board cannot consider that information in their decision.

The first witness was the applicant's planner and engineer, Kathy Herring of DW Smith Associates. She was sworn in, qualified and accepted. In preparation of the application, Ms. Herring reviewed the Borough zoning ordinances and Master Plan. She referenced Exhibit #A-2, PSE&G Maywood Substation Project Aerial Exhibit NJOIT 2015, 186 West Central Avenue prepared by DW Smith dated 6/3/19. She detailed the neighboring properties and their uses. Citing the Site Plan, she described the proposed improvements and use variances required:

- D(2) expansion of a nonconforming use
- D(6) height of the three 72' lightning masts

Ms. Herring then stated the proofs; specifically that utilities are an inherently beneficial use that promote the health, safety and welfare of the public. The Board did not require additional testimony with regard to the affirmative criteria. Ms. Herring would like to list some of the benefits of the project. The project is mandated by PJM. The site is particularly well suited since it was established in 1973 and has existing infrastructures. Once the project is complete, the facility will be in compliance with state standards. She explained that an acoustical study was conducted and will remain in compliance with state noise requirements. Mr. Kienz suggested that follow up sound analysis could be done 6 months after construction is complete as a condition of approval. In terms of light pollution, Ms. Herring stated that there is existing nighttime low level lighting and task lighting on poles that 8.5'-9' in height will continue in the expanded area. The station will remain unmanned with a technician visiting on a weekly basis thereby creating minimal traffic.

Two exhibits were marked; #A-4 (Lot 83) and #A-5 (Lot 80) West Central Avenue Existing View taken 11/27/18 and Proposed View created 7/23/19. Starting with Exhibit #A-4, Ms. Herring explained that the proposed rendering. The decorative wrought iron fence along the front would be continued. The proposed control room and GIS hall would have a residential look with parapets, faux windows and balconies instead of a flat roof utility building. The existing landscaping and sidewalks will be removed and replaced which is detailed in the landscaping plan. Ms. Herring then discussed Exhibit #A-5. Similar to Exhibit #A-4, the wrought iron fence would be continued and the emergency gate would also be the same material. There is a decorative wall along the east side of the property that would separate the substation from the neighboring residential property. Landscaping would be installed in front of the decorative wall. She pointed out that the corner post of the wall would require a front yard height variance. The 8' fence would also require a height variance. The 7' chain link fence that runs along the rear of the property adjacent to the railroad tracks would require two variances; height and barbed wire. The rear fence is a continuation of what is existing. There are a number of side yard setback variances required since proposed structures are measured from each property's lot line. Should the Board approve the application, all of the lots would merge which would remove the side yard setback violations. While there are multiple buildings on the property, none are considered accessory structures because they are all required for the principal use of the substation. Ms. Herring does not believe that there are any negative impacts or any substantial detriments posed by this project. She feels that the project is consistent with the Borough Master Plan since it encourages growth in the community. No off-street parking is proposed. It is her opinion that the C variances are subsumed under the use variance. Bergen County Planning Board approval is needed as West Central Avenue is a county road and the application has been submitted. Bergen County Soil Conservation District approved the project in May. NJDEP approval is not required. Except for the variances being requested, Ms. Herring believes the project would be in compliance with the Borough zoning and site plan ordinances. She believes that the applicant can comply with the issues raised in the Board Engineer and Board Planner reports.

Paul Kuhn asked if the proposed lighting would spill onto the street or neighboring properties. Ms. Herring cited the lighting plan and confirmed that lighting levels will stay within the property. Mr. Kuhn confirmed that the lights are adjustable if there are any complaints. Vice Chairperson Charlotte Panny asked if the generators would emit an odor. Mr. Kienz indicated that the generators are only used in an emergency. Ms. Herring concurred and answered that there are no odors related to the generator. Vice Chairperson Panny asked about the curbside trees that will be removed. Ms. Herring noted that the existing trees are showing significant levels of decay and disease so they will be removed. She explained that the Borough has requested that the trees not be replaced in that area. Trees are proposed to be located closer to the substation as part of the landscaping plan.

Board Engineer Tom Lemanowicz considers the construction fencing issue resolved. He has some questions about the drainage calculations that he would discuss with the applicant's engineer. He suggested displaying the landscaping plan should the Board have any questions. Chairman Lichtenberger clarified that the proposed lighting is 9' high while the lightning masts are 70' high. Board Attorney Kara Kaczynski confirmed with Ms. Herring that the beneficial use substantially outweighs any detriments.

Chairman Lichtenberger invited the public to ask questions of Ms. Herring. Denise Fontanez of 126 West Central Avenue asked about the height of the decorative wall. Ms. Herring answered that it is proposed to be 15' high. Ms. Fontanez asked if it could be lowered. Richard Hughes is Senior Project Manager for PSE&G and testified at the previous hearing on 6/6/19. He remains under oath. He offered to work with the Board Engineer on the wall height. When asked by Chairman Lichtenberger, he explained that the required height is 8' for security purposes. He confirmed that the wall setback is 16' from the property line where 5' minimum is required. There is a significant landscape buffer leading up to the wall. Board Attorney Kaczynski questioned the height of the landscape. Mr. Hughes deferred to the landscape architect. Ms. Fontanez clarified with Ms. Herring where the landscape bed would begin. Mr. Kienz cited the landscape plan prepared by DW Smith which was submitted as part of the application. Nicholas Ginther is landscape architect with DW Smith. He was sworn in qualified and accepted. He explained that the evergreens will take 15 years to mature and, once they do, they will be 35'-50' tall. They are expected to obscure the GIS Building. Ms. Fontanez asked if an additional fence could be installed between her property and the proposed landscaping buffer. Mr. Kienz believes that the request could be accommodated with input from the Board Engineer. Board Attorney Kaczynski suggested that his could be included as a condition of approval.

Katherine Martinez of 122 West Central Avenue asked Ms. Herring about her testimony stating that there would be no detriment from the project. Ms. Herring replied that with respect to noise, traffic and lighting, the project is in compliance with Borough codes. Ms. Martinez inquired about EMF. Mr. Kienz replied that Kyle King testified previously about EMF at the 6/6/19 meeting. Mr. King had testified that there is no EMF problem with the substation. Ms. Martinez then asked about fire hazards. Mr. Kienz explained that there was testimony at the 6/6/19 meeting that there is no fire hazard related to the substation. Rick DeHeer asked if, similar to the acoustic study that will be conducted 6 months after the project is complete, EMF tests could be conducted periodically. Mr. Kienz replied that it could be a condition of approval.

Leonardo Hernandez of 122 West Central Avenue noted that when he walked his dog, he could hear the electricity humming. Ms. Herring answered that the acoustic study concluded that the substation noise level was compliant with the state requirement. Mr. Hernandez asked if additional cables and poles would be installed going to the substation. He noted that the cables are hanging low. Ms. Herring stated that she was not qualified to answer the question as it is not part of the application. Chairman Lichtenberger explained that over the past few years there were underground lines installed along Central Avenue. Mr. Hernandez is concerned about the speed limit on the roadway but Ms. Herring answered that the applicant has no control over the speed limit and Central Avenue is a county road.

Chairman Lichtenberger asked Fire Official Thomas Tuttle to come forward. Mr. Tuttle was sworn in. He requested contact names for the persons supervising construction. Ms. Herring replied that the applicant will have a preconstruction meeting with Borough officials and will ensure that Mr. Tuttle is included in that meeting and contact information will be provided. He asked that one gate be designated a fire zone gate and Mr. Kienz agreed to the request.

Rick DeHeer asked if the noise level is expected to increase from the current level. Mr. Kienz replied that the noise level will remain the same.

The applicant's next witness is engineer Nicholas Gaspar who was sworn in, qualified and accepted. Board Engineer Tom Lemanowicz had a question about the stormwater calculation. Mr. Gaspar stated that the impervious coverage will decrease with the proposed project. He then detailed the change:

- Lots 91-134: current impervious coverage 8.1% vs. proposed impervious coverage 7.8%
- Lots 80-83: current impervious coverage 28.9% vs. proposed impervious coverage 19%

Board Engineer Lemanowicz is no longer concerned that the temporary trailers will create a stormwater problem as the impervious coverage will decrease by several thousand square feet. He requested that the information be included into the report. Paul Kuhn asked if there is an existing water problem in the area and Board Engineer Lemanowicz does not believe so. Chairman Lichtenberger believes that there is an existing pipe that runs beneath the railroad tracks.

Chairman Lichtenberger invited the public to ask questions of Mr. Gaspar. Denise Fontanez of 126 West Central Avenue asked about the stormwater effect on her foundation since she has observed water puddling in her neighbors' backyards. Mr. Gaspar answered that all of the proposed work will be done on PSE&G property and should not affect her property. If she encounters any problems, there is an on-site construction manager whom she can speak with. Board Attorney Kaczynski added that Ms. Fontanez can contact the Borough as well.

Chairman Lichtenberger invited the public to comment on the application. Denise Fontanez of 126 West Central Avenue explained that her home will be directly next to the expanded substation. She was upset that she was not contacted earlier about the proposed substation expansion. She contacted the Bergen County tax assessor and learned that her home was reassessed for \$165,000 less based on the proposed PSE&G project. She is worried that she will be unable to sell her home given the proximity of the substation.

Shreen El Sarrogy of 106 and 110 West Central Avenue bought a second property next door to her home last year without knowing about the planned substation expansion. She is concerned that her properties lost value and will be difficult to sell. She has contacted PSE&G and feels that they don't communicate well.

Katherine Martinez of 122 West Central Avenue bought her house in the past year without knowing about the proposed substation expansion. She believes that her property value has been negatively impacted by the proposed project. She is concerned about vehicles speeding down West Central Avenue.

Board Attorney Kaczynski summarized the variances being sought by the applicant:

- Preliminary and final site plan approval
- D(2) expand the preexisting nonconforming substation use
- D(6) height variance for 72'
- Various C variances for setbacks which will be unnecessary once the lots are merged

- C variance for fence height of 8', wall height, barbed wire, parking and any variances necessary for multiple structures on the lot as all are principal structures

Chairman Lichtenberger would like the applicant to work with the neighbors on landscaping and fencing. The substation was established in 1973 and the expansion is mandated. He then asked each Board member for their input. John Montel feels that the expansion is needed to update the facility. Secretary Anthony Klymenko believes that the applicant is attempting to make the facility visually appealing. Gary Neumann agrees that the use is inherently beneficial and considers the applicant a good neighbor. Vice Chairperson Charlotte Panny understands the need to upgrade the substation but sympathizes with the residents that live nearby. Paul Kuhn concurred that he sympathizes with the neighbors and hopes that PSE&G can compensate them. He considers the C variances being sought are trivial. Rick DeHeer knows that the expansion is required and would like communication between the residents and applicant to improve. Harry Hillenius understands that the project is mandated. Chairman Lichtenberger considers PSE&G to be a good neighbor. He believes that any issues that may arise between them and the neighbors related to lighting, noise, etc., can be resolved with help from the Borough.

Harry Hillenius made a motion to approve the application and Gary Neumann seconded the motion with the following conditions:

- The most easterly gate will be used for emergencies only
- The construction fence along the frontage will not enter the right-of-way
- The four homes which are scheduled to be razed will be made available to emergency service drills
- Arrangements will be made with the Borough for parking at the municipal pool parking lot during the construction phase
- No pile driving
- One gate will be designated as a fire zone gate
- Adequate sight distance will be maintained
- A pest control program will be implemented
- Issues identified in both the Board Engineer and Board Planner reports will be addressed
- Six-month postconstruction sound analysis will be conducted
- All lots will be merged
- All other agencies including the Bergen County Planning Board will approve the project and the approvals will be forwarded to the Board
- All reports will be updated, as necessary, specifically the drainage report and forwarded to the Board Engineer
- The applicant and Board Engineer will work with the property owner of 126 West Central Avenue on the issue of fencing
- EMF testing will be conducted as directed by the Borough and Board Engineer
- Preconstruction meeting will be held with the Borough and residents
- Trailers will be removed at the completion of construction
- Preconstruction inspection of 126 West Central Avenue to determine if there is any damage done by construction

All eligible members present voted in favor of the motion.

Closed Session None

Informal Hearing None

Old Business None

New Business None

Open Meeting to the Public

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. Chairman Lichtenberger seconded the motion. The meeting was adjourned at 9:30pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary