

**MAYWOOD PLANNING BOARD
MINUTES
September 27, 2018 Closed Session #2018-12**

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

**BOROUGH OF MAYWOOD PLANNING BOARD
Closed Session Resolution # 2018-12**

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
(X) Will return to open session after this meeting.

() Do not envision that they will return to open session after this meeting but reserves the right to do so.

Date of Passage: 9/27/18 Time: 7:38pm

Board Attorney Kara Kaczynski updated the Maywood Planning Board on the status of the Empire Real Estate Holdings, Inc. vs. Borough of Maywood and Maywood Planning Board litigation. Through mediation, a settlement agreement was reached with the plaintiff based on the Board's counter proposal. The Mayor and Council have approved a resolution approving the settlement agreement. Board Attorney Kaczynski explained that after the Board approves the Board resolution approving the settlement agreement, the applicant will reappear before the Board for site plan approval. The applicant revised the site plan to reflect the curb cut locations. Since Board Engineer Brian Gillen is delayed, a condition of approval may be that he review the site plan and determine if the proposed curb cut locations are appropriate.

Vice Chairman Paul Kuhn asked about the timing of the DEP application. Board Attorney Kaczynski answered that the applicant is bound by the settlement agreement which dictates that they must submit the DEP application by a certain date. If they do not submit the DEP application by the agreed upon date, they would default on the settlement agreement. Mediation has concluded.

Chairman Frank Lichtenberger asked about our next steps. Board Attorney Kaczynski explained that the resolution approving the settlement agreement would receive a motion, second and the Board would vote. Once the resolution is approved, the Board would hear the site plan application. She then detailed the conditions of the settlement agreement:

- 14 parking spaces on the property
- Limit the size of the vehicles
- Pursue approval from the NJDEP to pave the parking lot
 - If the DEP buffer changes from what was proposed in the site plan, the plaintiff would need to come before the Board for site plan approval
- Satisfy Borough and DEP stormwater management requirements
- Repair the curbing once the curb cuts are determined
- Office and vehicle storage will be permitted
 - All new tenants must acquire a CCO prior to tenancy
 - One business only – no parking space rental
 - Commercial-type vehicles cannot be larger than ambulances/ambulettes/vans
- Maintain the property in a clean and orderly way

- Violations would be for the tenants and property owner

Chairman Lichtenberger believes that Board Attorney Kaczynski can lead the application. Board Attorney Kaczynski encouraged the Board to ask questions. John McManus clarified that the violation goes to the occupant/tenant and the owner would be notified. Board Attorney Kaczynski explained that should the tenant not satisfy the violation; a lien would be placed on the property. Chairman Lichtenberger confirmed that the only outstanding issue for the site plan application is curb cut locations. Zoning Officer Mazzer asked about the signage. Chairman Lichtenberger feels that it is important that the Board review the proposed signage. Board Attorney Kaczynski replied that she would remind the applicant about the need to bring proposed signage before the Board.

Vice Chairman Paul Kuhn made a motion to return to the regular order of business. Chairman Frank Lichtenberger seconded the motion. All eligible members present voted in favor of the motion.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary