

**MAYWOOD PLANNING BOARD
MINUTES
September 28, 2017**

A regular meeting of the Maywood Planning Board was held on Thursday, September 28, 2017 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, 2016. 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 7:34pm with the following members present: Chairman Frank Lichtenberger, Secretary Charlotte Panny, Councilman Rick DeHeer, Gary Neumann, Harry Hillenius, Charles Goebel (arrived at 7:43pm) and John McManus. Zoning Officer James Mazzer, Board Attorney Kara Kaczynski and Board Engineer David Gleassey were also present.

Approval of Minutes

Secretary Charlotte Panny made a motion to accept the minutes from the September 7, 2017 meeting. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Bills

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

Correspondence

- 9/17/17 letter from Borough Clerk Jean M. Pelligra Re: Maywood Joint Venture Settlement Agreement

Resolution #1

**Maywood Joint Venture vs. the Borough of Maywood
and the Maywood Planning Board (BER-L-2792-17)**
29 Essex Street
Block 124, Lot 5
**Approving the Execution of the Settlement Agreement
Resolving the Litigation**

Secretary Panny made a motion to memorialize the resolution as written. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Resolution #2**Maywood Joint Venture**

29 Essex Street

Block 124, Lot 5

Calendar #2017-01**Revised Resolution of Approval in Accordance with the Settlement Agreement**

Harry Hillenius made a motion to memorialize the resolution as written. Gary Neumann seconded the motion. All eligible members present voted in favor of the motion.

Hearing #1**Maywood Joint Venture**

29 Essex Street

Block 124, Lot 5

Calendar #2017-12**Minor Site Plan Application**

Douglas Doyle of Decotiis, Fitzpatrick, Cole & Giblin is counsel for the applicant, Maywood Joint Venture at 29 Essex Street. The applicant appeared before the Board in February when the Board approved the applicant's appeal of the Zoning Officer's ruling and interpreted the zoning that the proposed armored car use was permitted in the Limited Light Industrial zone. As a condition of approval and a condition of the subsequent litigation settlement agreement, the applicant was required to come before the Board for Minor Site Plan Approval. Mr. Doyle stressed that the applicant will not be making any external changes to the site. He added that should the tenant, Dunbar Armored choose to alter the fencing, lighting, striping, etc., then the tenant would be required to go before the Board. The site plan that was submitted with the application reflects the planned interior layout, however, the construction plans are significantly more detailed and are subject to NJ State construction codes. As such, the interior layout may change from what is depicted on the site plan. Michael Nachtome is Chief Operating Officer of Murray Construction and was sworn in.

Charles Goebel arrived at 7:43pm. Mr. Doyle agreed to allow Mr. Goebel participate in the hearing and vote on the application.

Mr. Nachtome is person who signed the minor site plan application and site plan checklist. He also requested several site plan checklist waivers and ensured that two exhibits (existing conditions and proposed floor plan) were attached to the application. He reiterated Mr. Doyle's opening statement that there are no proposed exterior changes to the building, parking lot, site circulation, striping, lighting or fencing. Mr. Nachtome said that he understood that the tenant Dunbar Armored intends for the interior layout to reflect what was submitted with the minor site plan application (L2M Architects SK-1 dated 5/11/17) which would require construction permits. Dunbar Armored is a transportation and processing firm which collects, stores and redistributes US Currency. If the tenant should like to make any exterior changes to the building, Mr. Nachtome understands that the tenant is required to come before the Board for an amended site plan application.

Chairman Lichtenberger reminded the applicant that Dunbar Armored testified at the appeal and request for interpretation hearing that they intended to build a 10' high fence enclosure. Mr. Nachtome said that if the tenant wants to do this enclosure, the tenant will need to come before the Board. Fire Official Tom Tuttle did not have any questions for the applicant since the applicant will need to comply with NJ State fire and construction codes. Councilman DeHeer asked if the applicant is aware of all of the codes and Mr. Doyle replied that they were aware since they operate other facilities in New Jersey. Charles Goebel asked about the other NJ locations. Mr. Nachtome said that the tenant would like to relocate from the Hackensack location and the other location is in central New Jersey. Zoning Officer James Mazzer was sworn in. He asked that the applicant clean-up the overgrown vegetation near the back of the parking lot. Mr. Doyle suggested that the overgrown vegetation clean-up be included as a condition of approval. Chairman Lichtenberger confirmed that there is no locked gate planned for the Demarest Place entrance.

Chairman Lichtenberger invited the public to ask questions of Mr. Nachtome.

Renee Lemaure of 45 Maywood Avenue preferred the hours of the Design Spree business as compared to FedEx. She asked what the hour of operations were for Dunbar Armored. Mr. Doyle explained that the main hours of operation are 7am-5pm but some trucks may arrive after 5pm and staff will be on-site 24 hours a day. Chairman Lichtenberger provided some background information about what was testified to at the 2/2/17 appeal and request for interpretation hearing. Board Attorney Kaczynski clarified that the current hearing was for minor site plan approval. She further explained that the Board approved the appeal that the proposed use is permitted in the zone at the 2/2/17 hearing. Ms. Lemaure started to ask questions about the impact on property value but Mr. Doyle countered that the Board cannot consider property value when voting on applications. Councilman DeHeer explained that the building already exists and this minor site plan application does not propose to make any changes. He believes that having the building occupied is better than having it vacant. Chairman Lichtenberger suggested that if there are any problems with the tenant, Ms. Lemaure should contact Zoning Officer Mazzer.

Board Attorney Kaczynski asked Mr. Doyle if he had any more witnesses to testify. Mr. Doyle indicated that he did not. Board Attorney Kaczynski then offered that the public may also comment as well as ask questions.

Shekhar Saud of 10 West Howcroft Road asked if there would be weekend activity at the location. Mr. Doyle said that the facility can accept trucks 24 hours a day but most trucks will leave and arrive during the 7am-5pm time period. This also includes weekends. Mr. Saud then requested that the applicant clean-up the overgrown vegetation. He also asked if there would be changes to the storm water management facility and Mr. Doyle replied that no changes are proposed. Mr. Saud asked who is responsible to maintain the storm water management facility and Mr. Doyle answered that the tenant or owner are responsible.

Chairman Lichtenberger invited the public to comment. No one in attendance came forward.

would like to continue operating the ambulance business from the garage and park their ambulances/ambulettes on the property. There is an existing ground sign on the property installed sometime in 2004 or 2006 with the benefit of a permit. The applicant would like to resurface the sign with the name of the ambulance company since it still has the name of the prior tenant. He believes that it conforms to the Borough code since it is 18 square feet. The parking area is currently gravel/compacted stone and the applicant proposes to pave it. There are a number of nonconforming conditions since both lots, even combined, are undersized. The only changes proposed are refacing the sign and paving the parking area. The proposed use as an administrative office is not permitted in the Limited Light Industrial (LL) zone.

Chairman Lichtenberger requested that Zoning Officer Mazzer provide a timeline for the events leading up to the hearing. Zoning Officer Mazzer was sworn in. He believes that Lot 15 was purchased in 2004 and the garage was used to store vehicles related to the On the Spot business. Lot 16.01 was purchased in 2008 which was also used for the business. After some time, the business relocated and the site was vacant. In the spring 2016, he was notified that the curbs on the property were being jackhammered. This prompted him and Borough Administrator Roberta Stern to visit the location. They observed the garage being used as an office by Metro Ambulance without having obtained a CCO. He also observed several ambulances parked on the gravel. Zoning Officer Mazzer contacted Michael DeMarco to inform him what was happening was not permitted. Mr. DeMarco cooperated by applying for the CCO to allow the tenant to continue occupancy on the condition that he would come before the Planning Board for a use variance. Zoning Officer Mazzer believes that paving the parking area will be an improvement over the existing gravel. He added that the curb cuts will need to be corrected. The stream will need to be protected and a barrier will need to be added for the paved parking lot. Chairman Lichtenberger asked if it is a typical practice that a business would operate at a location prior to receiving a CCO and Zoning Officer Mazzer said that businesses should always obtain a CCO prior to tenancy. Chairman Lichtenberger asked what a property owner would need to do in order to adjust their curb cuts and Zoning Officer Mazzer answered that a construction permit is required. Charles Goebel clarified that the curbs were cut without obtaining a permit. Gary Neuman confirmed that the tenant is operating a business which is a nonpermitted use in the LL zone. The curbs were cut illegally more than one year ago. Zoning Officer Mazzer believes part of the delay in having the hearing was due to the fact that the Board Engineer changed.

Harry Hillenius referenced the CCO approved on 7/21/04 which transferred ownership from Robert Paglinco to Michael DeMarco. The CCO detailed that the garage would store three Ford pick-up trucks and no outside storage of vehicles would be permitted without Board approval. Mr. Hillenius believes that the proposed paving for parking would exceed the impervious lot coverage limit. Chairman Lichtenberger believes that when On the Spot was occupying the location, the brook was remediated. Secretary Panny believes that there is a rule that paving cannot be allowed within 5 feet of the stream bank. Board Attorney Kaczynski suggested that should the Board choose to approve the application, a condition can be added that the applicant must comply with any and all buffering, hardscaping and impervious surfacing limits within a certain proximity to the stream per DEP requirements. Chairman Lichtenberger believes that the application process dragged on for too long. He thinks that the 5/3/17 letter from Zoning Officer Mazzer which threatened fines, spurred the applicant to action. Chairman Lichtenberger mentioned that throughout this time, the tenant continued to operate the business.

Mr. Schepis provided some additional background information. He was not originally involved in the application when it was first filed in late October 2016. The applicant's engineer helped fill out the forms. The application was deemed incomplete by the Board Engineer in early November and additional information was requested. Mr. Schepis was hired by the applicant in late December 2016 and a revised application was submitted in mid-February 2017. The Board Engineer deemed the revised application incomplete in early March 2017 and the application was resubmitted in early May 2017. Finally, the application was deemed complete over the summer and the hearing was scheduled for tonight.

The first witness was the applicant's engineer David Egarian and he was sworn in, qualified and accepted. Mr. Egarian prepared the site plan dated 10/12/16 with a revision date of 8/30/17. Members of the Board did not have this latest version of the plan which was updated to include the handicapped parking striping layout, handicapped parking sign detail and an expanded building floor plan. This updated site plan was marked as Exhibit A-1. Mr. Egarian described the existing conditions. There is a one-story masonry building/garage measuring 821 square feet with an office and small storage area. The building coverage is less than 10% and the lot coverage 43% where the maximum of 40% permitted. Mr. Egarian does not believe that the lot coverage would change if the parking lot is paved since the existing parking area is impervious as it is composed of compacted gravel and broken asphalt. The corridor adjacent to the brook is not impervious and there is no planned construction in this area which represents 57% of the lot coverage. No additional impervious surfaces are being proposed. Nearly the entire length of the property on Hergesell Avenue will be a dropped curb allowing easy access to the parking area. Mr. Egarian explained that 22 parking spaces are proposed. In response to Board Engineer David Gleassey's concern about 90°(degree) parking, Mr. Egarian provided a parking detail with 60°(degree) angled parking which was marked as Exhibit A-2. This revised parking layout would allow for vehicles to back up without entering the roadway (Hergesell Avenue) but cuts the number of parking spaces down to 15 from 22. The angled parking layout would allow vehicles to back out within the property instead of onto the active roadway. Harry Hillenius pointed out that vehicles would be heading north on Hergesell Avenue toward Route 17 North. Mr. Egarian noted that the northernmost section of the property has a right-of-way easement bridge to the Maywood Healthcare Facility which is included in the impervious surface calculation. No changes are proposed for this section of the property. Prior to paving the parking area, the applicant planned to install guiderails along the top bank of the brook with markers to demarcate the spaces. With the change to the 60°(degree) angled parking, Mr. Egarian believes wheel stops are a better option. Mr. Egarian believes that the most recent site plan with the angled parking addresses the concerns of Board Engineer Gleassey's 7/31/17 completeness review. There was no evidence found about a sanitary sewer easement on the property. Chairman Lichtenberger believes that there is a sewer trunk line running along the westernmost border of the Borough. He added that the easternmost border also has a sewer trunk line. DPW Superintendent Gary Neumann investigated and found that the sewer trunk line runs along the center of Brook Avenue.

Chairman Lichtenberger asked Mr. Egarian about what issues exist with the brook. He answered that paving would need to be done in the riparian buffer which requires a DEP permit or exemption. Mr. Egarian does not believe that there will be an issue with drainage since the

impervious surface (6,163 square feet) falls below the major development storm water regulation threshold (quarter acre) for quality and management. Board Engineer Gleassey believes that the angled parking plan satisfies his concern about vehicles backing out onto the public roadway. However, there are several utility poles on the property curb line which would interfere with ingress and egress. As such, he would recommend a full height curb near the utility poles and not the dropped curb which is proposed. Additionally, Board Engineer Gleassey believes that a small concrete curbed island around the utility poles may be beneficial. In terms of drainage, he believes that the parking area should be sloped toward the roadway to minimize run-off into the brook. He recommends that the applicant contact the DEP to identify the wetlands riparian buffer required for the sprout brook. He further explained that the DEP has a rating system for riparian buffers based on the quality of the wetlands. Mr. Schepis suggested that the project be broken into two parts in respect to the timetable; Phase 1 would address the curb, utility pole islands and angled wheel stops and Phase 2 would be contingent on the DEP application for the guiderail and paving. Chairman Lichtenberger believes that the brook was cleaned up in the past fifteen years but he does not know who authorized it. He then asked how the ambulance vehicles would be serviced and Mr. Schepis asked if the tenant could answer that question when he testifies. Board Engineer Gleassey asked what the plans were for the existing chain link fence enclosure. Mr. Schepis answered that the enclosure is to remain and will be used as one parking space. Secretary Panny asked about how vehicles will access West Central Avenue since they will be facing north when they pull out of the property. Mr. Schepis asked if the tenant could answer that question when he testifies. Board Attorney Kaczynski asked if the tenant can also address the dumpster. Mr. Schepis responded that the property does not have a dumpster and the tenant uses regular curbside garbage cans.

Chairman Lichtenberger invited the public to ask questions of Mr. Egarian.

Joe Holmes of 179 West Central Avenue asked about traffic backing up on West Central Avenue and asked if the building would be enlarged. He is concerned because there is significant pedestrian traffic going to the Maywood Municipal Pool in the summer. He asked if a sidewalk could be installed to protect pedestrians. Chairman Lichtenberger responded that the applicant is not proposing to increase the building size.

The second witness was the applicant's tenant Elidon Deliaj, part owner of Metro Ambulance and he was sworn in. He described the business as non-emergency patient transport. Appointments are scheduled in advance and flashing lights/sirens are not used. Their clients are patients in nursing homes, rehabilitation centers and local residents with mobility issues. These clients are mostly brought to doctor appointments. Metro Ambulance currently has five operational ambulances and two ambulances that are expected to become operational soon, as such there are seven ambulances in total. Ambulances carry patients in stretchers and are operated by two certified EMTs. Fifteen EMTs are employed by Metro Ambulance. Mobility assistance vehicles/coach vans/ambulettes are used for patients in wheelchairs using a lift as well as ambulatory patients. The operators are not EMTs; their title is Mobility Assistance Vehicle Technicians (MAVT). They provide the same type of service as the ambulance but the patients are generally in better health. There are three office staff in the building; dispatcher, office manager and billing coordinator. The storage area holds medical supplies such as oxygen masks and tubing, suction units, bandages, etc. Small bottles of oxygen are stored in the building but

are filled off-site. No medication is stored in the building. Vehicle maintenance is done off-site. There are five mobility assistance vehicles, seven ambulances and three office staff which matches the 15 angled parking spaces proposed. Mr. Deliaj does not believe that exiting the parking area and heading north on Hergesell Avenue toward Route 17 North should not be a problem. He explained in order to access West Central Avenue, drivers could U-turn at the Brook Avenue cul-de-sac. He understands that backing onto the public road is dangerous and would instruct his employees to avoid doing so. They have a policy of having one employee spotting the driver whenever reversing the vehicle. Zoning Officer Mazzer asked about the chain link fence enclosure and Mr. Schepis offered to have it removed. Mr. Deliaj said that the fenced enclosure was not needed for his business. Mr. Schepis asked about the need for a dumpster. Mr. Deliaj answered that having been in the location for over one year, they have not needed more than one curbside garbage can for office waste. Chairman Lichtenberger asked where the EMTs and MAVTs park while working. He provided the example that the business has twelve vehicles requiring twenty-four EMTs and MAVTs and three office staff. He believes the parking is insufficient. Charles Goebel believes that the EMTs and MAVTs will park on the street. He is astonished that the applicant would illegally jackhammer the curbs and suspects that the ambulance drivers will back out of the property onto the roadway in order to access West Central Avenue. Secretary Panny asked about hazardous waste collected in the ambulance and Mr. Deliaj explained that all hazardous waste is disposed of at the hospital including dirty linens. Chairman Lichtenberger is very concerned about the parking and asked about the schedule. Mr. Deliaj answered appointments are scheduled throughout the day but mid-afternoon is the busiest time. He suggested that the employees drive to work together. They currently fit approximately 20 vehicles since the spots are 90°(degree). Chairman Lichtenberger clarified that the ambulances and mobility assistance vehicles are parked overnight on-site. When the ambulances and mobility assistance vehicles are out on calls, employees park in their spots. Chairman Lichtenberger believes that there is insufficient parking for this location and cars would need to be jockeyed in and out all day. Mr. Deliaj said that the hours of operation are 24 hours a day/7 days a week but there is a skeleton crew on-site between 8:30pm-5am. Chairman Lichtenberger asked if Mr. Deliaj plans to grow his business and Mr. Deliaj believes that business expansion is likely. Chairman Lichtenberger noted that there is significant vehicular and pedestrian traffic in that area. Mr. Schepis asked if Mr. Deliaj would cut back the number of ambulances to five from seven so that they would have ten vehicles instead of twelve and Mr. Deliaj answered that he would. He said that they are considering renting parking spaces at a location in Clifton.

A short recess was taken at 9:26pm. The meeting resumed at 9:36pm with all members present.

Mr. Schepis explained that he would like to finish Mr. Deliaj's testimony and then call applicant Michael DeMarco to testify. He would then like to request an adjournment to address the concerns and questions raised during the hearing thus far. The Board was agreeable to this course of action. Mr. Schepis does not expect additional restrictions from the DEP which could reduce the number of proposed parking spaces to be less than 15. Board Attorney Kaczynski suggested that a condition of approval would be to set a minimum distance between the property line and the parking space. Should the DEP decision reduce that distance, the applicant would be required to come before the Board for amended site plan approval.

Chairman Lichtenberger invited the public to ask questions of Mr. Deliaj.

Andrea Holmes of 179 West Central Avenue asked about the size of the ambulances/mobility assistance vehicles and the parking spaces because she is having a hard time envisioning how 15 parking spaces would fit on the property. She showed Mr. Deliaj a photo that she took of the property and they discussed how the vehicles would navigate the parking area. Board Attorney Kaczynski referenced the site plan that detailed that the parking space is 9' x 18'. Mr. Deliaj showed Ms. Holmes in her photo how far back the ambulances and mobility assistance vehicles can park. She confirmed that the illegal curb cuts would be repaired and the applicant, not taxpayers, would pay for the repair.

The last witness for this hearing was the applicant Michael DeMarco and he was sworn in. He stated that he has lived in Maywood since he was young. The property was purchased in 2004 for the On the Spot business. He purchased the adjacent piece of property for parking the business vehicles. He cleaned up the lot and the brook because the vegetation was overgrown and many items had been dumped there like tires, broken glass, garbage, etc. He has paid taxes on the property and would like to be able to use it for rental income to cover his expenses. He explained that PSE&G stored trucks and materials on the easement without his permission. He continued to describe how PSE&G's contractor dumped gravel on the lot and damaged the curbs. Mr. DeMarco tried to clean up the curb damage so that his tenant's vehicles wouldn't be damaged. Chairman Lichtenberger asked why the On the Spot business moved and Harry Hillenius pointed out that the On the Spot business parked their vehicles on the property for many years. Mr. DeMarco said that starting in 2008, he parked only a few vehicles at this location. The business moved to Saddle Brook and the bulk of the vehicles parked there. Mr. DeMarco received a CCO for the property in 2004 and acquired a ground signage permit in 2006. In regards to the Metro Ambulance tenancy, he stated that the CCO was issued prior to the tenant occupying the property. Mr. DeMarco asserted that PSE&G never compensated him for the damage inflicted on his property but he did receive a small amount of money for use of the easement. He would like to install landscaping on his property to improve the aesthetics. Prior to the next hearing, he will work with his engineer to add a landscaping plan to the site plan and provide a sign rendering.

Harry Hillenius summarized the history of Mr. DeMarco's ownership. Mr. DeMarco purchased Lot 15 from Robert Paglinco in May 2004 and the CCO detailed that the garage would store three Ford pick-up trucks and no outside storage of vehicles would be permitted without Board approval. Mr. DeMarco replied that he purchased Lot 16.01 expressly for outside vehicle storage for his On the Spot business. Mr. Hillenius explained that the CCO condition that there would be no outside parking of vehicles carries forward with the property. Mr. DeMarco replied that the On the Spot business outgrew the location and was relocated to Saddle Brook. The most recent CCO approved on 8/2/16 was issued with the stipulation that the applicant come before the Board for a use variance, however, the tenant has occupied the building for over one year prior to the hearing. Mr. Hillenius noted that Zoning Officer Mazzer issued a summons letter on 5/3/17 threatening fines of \$1,000 per day starting on 5/8/17. He asked if any fines were paid and Mr. Schepis answered that there have been no fines paid. Secretary Panny asked if the applicant was planning to install a bathroom for the office staff. Mr. DeMarco answered that there is an existing bathroom and heating system installed by Mr. Paglinco. Mr. Hillenius further explained that Mr. Paglinco operated a mechanic shop at that location which had a small bathroom.

Chairman Lichtenberger invited the public to ask questions of Mr. DeMarco but no one came forward.

Mr. Schepis requested that the application be adjourned to the 11/2/17 meeting with no need for further notice. Board Attorney Kaczynski requested that the next meeting on 10/5/17 be cancelled since there are no hearings scheduled and she and Chairman Lichtenberger would be unable to attend. The following meeting is scheduled for 10/26/17 but the applicant's attorney Mr. Schepis has a conflict on that date. As such, the Board agreed to adjourn the hearing to the 11/2/17 meeting without need for additional notice.

Informal Hearing None

Old Business None

New Business

- Board Recording Secretary Grunstra distributed binders with the most recent Borough Code Chapter 209 Land Use
 - Sections of chapter 209 were indexed
 - When there are code updates, the section can be replaced without needing to replace the entire binder

Open Meeting to the Public None

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. John McManus seconded the motion. The meeting was adjourned at 10:03pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary