

**BOROUGH of GARWOOD**  
**PLANNING BOARD**

**MEETING of WEDNESDAY, September 28, 2016**

*Chair Stephen Greet called the meeting to order at 7:30 p.m. and stated the following:*

**Meeting Notice:**

Pursuant to the Open Public Meeting Law, this is to state for the record that adequate notice of this meeting has been provided to the public by publication in the Westfield Leader and by filing of said notice in the office of the Municipal Clerk. This is a regular meeting of the Board.

**MOMENT OF SILENCE AND SALUTE TO THE FLAG**

**ROLL CALL**

**Present:** Mayor Charles Lombardo, Councilman James Mathieu, , Stephen Greet, William Nierstedt, Kathleen Villaggio, Robert Scherer, Michael Vena ,Gene Jannotti, Paul Tarantino, Craig McCarrick (Alt I), Steve Napolitano (Alt III), John Malcolm (Alt IV)

**Absent:** None

**Excused:** None

Also present were Board Attorney Donald Fraser and Board Secretary Adele Lewis. Planner/Engineer Victor Vinegra was excused.

Mayor Lombardo announced that board member Paul Nieves (Alt II) had resigned his position as he was called to duty as a US army reserve. Mayor Lombardo wished Mr. Nieves well and stated that Steve Napolitano (Alt III), John Malcolm (Alt IV) would each move up to Alt II and III respectively, leaving Alternate IV vacant for the time being.

**MINUTES**

ADOPTION OF MINUTES:

- **JULY 27, 2016 PLANNING BOARD REGULAR MEETING**

*On a motion by Gene Jannotti and seconded by Robert Scherer, the Board voted by general consent to adopt the minutes of July 27, 2016.*

**RESOLUTION**

**Case #PB 16-05**

**52 Third Avenue**

Block 204 Lot 25 R/A zone

Applicant: **RAYMOND VENTURINO**

*Granting a Certificate of Non-conformity for a two-family home in the R/A zone*

*Board Attorney Fraser distributed the resolution he prepared.*

*On a motion by Robert Scherer and seconded by Charles Lombardo, the Board voted Affirmative (9) Charles Lombardo, Councilman James Mathieu, Kathleen Villaggio, Paul Tarantino, Gene*

*Jannotti, Robert Scherer, Craig McCarrick, Steve Napolitano, John Malcolm to memorialize the wording of the Resolution granting a certificate of non-conformity for a two-family house in the R/A zone* **MOTION CARRIES 9-0**

**APPLICATIONS**

**Case #PB16-06**

**438 3rd Avenue B. 104 L. 30 R/A Zone**

**Applicant: Robert & Joyce Leahey**

*Seeking a variance from Section 106-114B for a driveway/parking in front yard*

Robert Leahey was present on behalf of his application and was sworn in. He reviewed the packet of information he provided. He stated that he resides at the subject property and he is seeking permission to install a front-yard driveway. Due to the narrowness of the lot, he cannot extend a driveway beyond his house. Mr. Leahey stated that he applied for a zoning permit from Mr. Vinegra, which was denied because Mr. Vinegra did not believe the request conformed with the ordinance. Mr. Leahey stated he had health issues and due to the proximity of his home to Lincoln School, he often finds it difficult to locate parking in front or near his home. He referenced a photo he provided of a nearby home with front yard parking. Mr. Leahey was asked if he knew the width of the home depicted in the photo. He stated he did not. It was noted that the property was a corner lot with a 50 ft. width.

Kathy Villaggio inquired of Mr. Vinegra to review the change in the zoning ordinances in which the borough permitted front-yard driveways providing there was sufficient depth for the driveway. Mr. Vinegra agreed and stated that he had forgotten about the change and denied the permit in error. The Board also discussed the challenges of the subject property such as the utility pole and catch basin. Mr. Vinegra stated that a road opening permit would be required. Mr. Vinegra also stated that the lead piece of the catch basin could be replaced with a flush basin. He asked Mr. Leahey to contact him to further discuss the revisions needed and for the necessary permits and discuss the landscaping. Mr. Leahey stated that the tree in the front yard is dying and will be removed.

Board Attorney Fraser recommended that the Board carry the case for one month at which time it can be dismissed without prejudice.

QUESTIONS/COMMENTS FROM THE PUBLIC: There were no questions from the public.

*On a motion by Robert Scherer and seconded by Charles Lombardo, the Board voted Affirmative (9) Charles Lombardo, Councilman James Mathieu, Steve Greet, William Nierstedt, Kathleen Villaggio, Paul Tarantino, Gene Jannotti, Robert Scherer, to carry the application of 438 3<sup>rd</sup> Ave.*

Mayor Lombardo and Councilman Mathieu left the meeting as they could not participate in the next application. Gene Jannotti recused himself due to a professional relationship with Mr. Schmidt.

**Case #PB16-07**

**40 North Avenue Block 209 Lot 27 General Business Zone**

**Applicant: Alison Mennor**

*Appeal of Administrative Officer and possible Use Variance to permit a tattoo studio on a portion of the first floor of retail space*

**John Schmidt, Esq.** of Lindabury McCormick represented the applicant. He stated that the land use code prohibits tattoo establishments uses. He stated that Ms. Mennor's business would not only include artistic tattoos, but others for scar camouflage and areola restoration after a mastectomy.

**Alison Mennor**, 230 North Avenue, Cranford was sworn in and stated that she would like to open a tattoo studio at 40 North Avenue. She testified to her credentials as a tattoo artist and stated that she is licensed in NY (NJ does not require licensing) and has been in the business for 10 yrs. She added that tattoo studios are regulated by the State. She described the 440 sq. ft. space she intends to rent to establish Lost and Found Tattoo Art Studio.

Ms. Mennor stated that she lives within walking or biking distance of 40 North Avenue and currently works in Somerville. The new location would improve her quality of life with less commuting time. She added that she is a lifelong Cranford resident and is excited about opening a business in Garwood. She described how she intended to see a maximum of three clients each day by appointment. She stated that her clientele consist of professionals, seniors, parents and executives. Her rates are \$150- \$175 per hour. She added that she will comply with the sign ordinance. A portfolio of her work was passed around for the Board members.

A-1 floor plan of space was marked into evidence.

Bill Nierstedt stated that the Board should first decide the issue of the administrative appeal to determine if Mr. Vinegra's denial of a permit would be upheld.

*On a motion by William Nierstedt and seconded by Stephen Greet, the Board voted Affirmative (5) Kathleen Villaggio William Nierstedt, Stephen Greet, Paul Tarantino, Craig McCarrick. Negative (2) Mike Vena, Robert Scherer to uphold the decision of the Zoning Officer that tattoo studios are a prohibited use.*

RECESS 8:25- 8:35

The Board reconvened to hear the Use Variance portion of the application.

**David Zimmerman, P.P.** of Morristown NJ was sworn and qualified. He testified that the subject property is in the General Business zone which allows a wide variety of personal services. He read a listing of prohibitive uses from various other municipal ordinances, citing noise and traffic and stated that this use is particularly suited to this site.

Victor Vinegra noted that all four parking spaces depicted are substandard. He reminded the Board of a previous application at this site and noted that without knowing the other uses in this building, it cannot be determined if a parking variance is being created.

Mr. Schmidt stated that the rest of the building is mostly a warehouse use. Mr. Vinegra reiterated that the Board must know what the uses are for the entire site and that the use of the second story is unknown. It was also noted that the survey incorrectly identifies the building as a one story building. Board Attorney Don Fraser added that the landlord cannot provide spaces without knowing how many parking spaces are required for the warehouse use.

Ms. Mennor stated that she believed a relative of the owner, whom she said lived in Florida, occupied an upstairs apartment. Mr. Vinegra stated that the apartment and the other building tenant, a wedding/bridal event storage business leaves many questions regarding the granting

of this D-1 variance and whether the site is currently in zoning compliance. He noted that the owner was not present to testify to the existing conditions. The Board asked Ms. Mennor would like to continue the case to gather this information.

A short break was taken to allow Mr. Schmidt to speak to his client.

The applicant expressed her desire to have the Board decide the case at this meeting and continued with the planning testimony.

Mr. Zimmerman stated that the granting is a less intensive use than is permitted and is the best use for the property. He reviewed the negative and positive criteria for the grant of the D-1 variance.

Questions/Comments from the public:

Karen Klenk, resides in VA and owns 34 North Avenue questioned the lack of available parking on and near the site.

The consensus of the Board was that they did not take issue with the use rather the site posed many unresolved issues. Robert Scherer stated this was a good use for the site.

*On a motion by Robert Scherer and seconded by Mike Vena, the Board voted Affirmative (2) Robert Scherer, Mike Vena, Negative (5) Kathleen Villaggio William Nierstedt, Stephen Greet, Paul Tarantino, Craig McCarrick to grant a Use Variance to permit a tattoo studio on a portion of the first floor of retail space. **MOTION DOES NOT CARRY 2-5***

### **NEW BUSINESS**

Kathy Villaggio distributed proposed changes to the Certificate of Non-conformity application and checklist. Board members reviewed the changes and recommended revisions to some of the language.

*On a motion by Gene Jannotti and seconded by William Nierstedt the Board voted unanimously to adopt the new Certificate of Non-Conformity checklist and forms.*

**CLAIMS**- *The following claims were presented for payment and approved.*

To Victor Vinegra of Harbor Consultants:

Invoice # 23670 for \$52.50 from the escrow of 521-531 South Avenue

Invoice # 23685 for \$1890.50 from the escrow of 245 South Avenue

Invoice # 23679 for \$725.00 from escrow South Ave Redevelopment (pending replenishment)

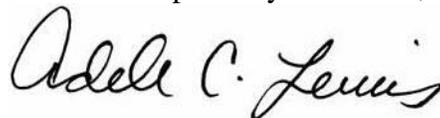
Invoice # 23701 for \$140.00 from the escrow Garwood PaperBoard – North Avenue

**INVITATION TO ADDRESS THE BOARD**- no comments from the public.

**ADJOURNMENT** - The next meeting of the Planning Board is scheduled for October 26<sup>th</sup>.

There being no further business, the Board adjourned 10:30 p.m.

Respectfully Submitted,



Adele C. Lewis, Board Secretary