

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of WEDNESDAY, June 22, 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, Kathleen Villaggio, William Nierstedt, Michael Vena, Robert Scherer, Gene Jannotti, Paul Tarantino, Craig McCarrick (Alt I), Paul Nieves, (Alt II) Steve Napolitano (Alt III), John Malcolm (Alt IV)

Absent: None

Excused: None

Also present were Planner/Engineer Victor Vinegra (*arrived at 7:41pm*) and Board Secretary Adele Lewis. John Motta, Esq. was present as conflict counsel for Board Attorney Donald Fraser.

MINUTES

ADOPTION OF MINUTES:

- **MAY 25, 2016 PLANNING BOARD REGULAR MEETING**

On a motion by, Gene Jannotti and seconded by Kathleen Villaggio, the Board voted by general consent to adopt the minutes MAY 25, 2016 PLANNING BOARD REGULAR MEETING AS REVISED TO REFLECT THAT MR. TARANTINO WAS NOT PRESENT.

RESOLUTION

Case #PB16- 04 **41 Second Ave.** Block 208 Lot 10

Applicant: Sharon Kornmeyer

*Denying a variance from Section 106-114B residential parking
for a driveway in front yard and front yard parking*

BOARD ATTORNEY FRASER WAS NOT PRESENT AND THE RESOLUTION HAD NOT BEEN RECEIVED.

APPLICATIONS

Chair Greet announced that he would be changing the order of the agenda.

Case #PB16- 02 **219 Second Ave.** / 227 Second Ave. Block 207 Lot 12 & 13
R/B Zone

Applicant: Mary Wanca

*Pursuant to N.J.S. 40:55D-72a- Appeal of the Administrative Officers
Determination regarding vacant lot #13 adjacent to Lot # 12 – in the event of
the Board upholding the Zoning Officer's decision, the applicant will proceed
with a subdivision and variance request.*

A court reporter was present as required by ordinance for a subdivision application.

Mr. Gary Hall, Esq. represented the applicant. He provided an overview of the application stating that they are bringing forth an Appeal of the Zoning Officer's decision that the lots have merged by the "Loechner rule" cited in Mr. Vinegra's letter dated 4/5/16. He continued that the applicant is also filing for the alternative relief of the subdivision and variances should the Appeal not be successful. He introduced Ms. Mary Jane Wanca D'Agostino who was sworn in.

Mary Jane Wanca D'Agostino, Califon, NJ testified that she is the niece of Mary Wanca and has power of attorney for all Ms. Wanca's financial matters and she is trying to wrap up her finances in New Jersey. She stated that until recently, Mary was a lifelong resident of Garwood and that an accident has rendered her a quadriplegic. Mary currently resides in Virginia in a nursing home near other family members. Ms. D'Agostino, who grew up in Garwood, stated that she is very familiar with the subject property with the two family house which was purchased by her grandparents approximately 70 yrs. ago. Subsequently, they purchased the vacant lot adjoining the property and used it as a garden. At some point Ms. Wanca purchased the properties. Ms. D'Agostino stated that they have always been two separate lots with separate deeds and separate tax bills. She stated that property tax on the two family is approximately \$8000 and the property tax on the vacant lot is \$3000. Ms. D'Agostino stated that approximately 10 yrs. ago, her Aunt Mary appeared before the Planning Board to inquire if the lots were separate and protected from the zone change, but nothing was ever formalized. Ms. D'Agostino inquired of Mr. Vinegra if the lots were in separate ownership would the merger rule apply. Mr. Vinegra stated that he felt then the merger would not apply. It was noted that the zone requirements also changed requiring 50 ft.

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

Mr. Vinegra read his letter and sections of the Loechner rule which states that properties in common ownership become merged, even if not recognized by the tax office. Ms. D'Agostino inquired why they were applying for the Appeal. Mr. Hall stated that they were preserving their rights.

Mr. Motta stated that the Board should vote on the Appeal.

The general consensus of the Board was to uphold the Zoning Officer's decision.

*On a motion by William Nierstedt and seconded by Gene Jannotti, the Board voted Affirmative (8) Charles Lombardo, Councilman James Mathieu, Stephen Greet, Kathleen Villaggio, William Nierstedt, Paul Tarantino, Michael Vena, Gene Jannotti, Negative (1) Robert Scherer, to uphold the Zoning Officer's decision. **MOTION CARRIES 8-1***

Mr. Gary Hall proceeded with the Subdivision and variance request. He stated they are seeking whatever is permitted on this lot. He stated they are asking to be grandfather. He stated that Second Avenue is densely populated and the vacant lot is like a "missing tooth". He noted that there are mostly two-family homes on that block.

Mr. Greet stated that he would like to see a one family home built on this because it is an undersized lot. Mr. Vinegra stated that it is appropriate to place a restriction of a one family house on an undersized lot.

Kathy Villaggio stated that there are many two-family homes there and she doesn't have a problem with the request but would like to make sure there is sufficient parking.

Ms. D'Agostino stated that there are several undersized lots with two families on that block.

William Nierstedt noted that this is an unusual block with a mix of lot sizes and one and two family homes. He noted that the existing two family home is on a 34 ft. wide lot. He is not opposed to the subdivision however he would like consideration given having the 40 ft. lot go to the existing two family and create a new 34 ft. lot. He asked the Board to look at the bigger picture and the variances being sought and noted that even a one family would not be permitted by current zoning. Mike Vena suggested two 37 ft. wide lots.

Mr. Hall stated that realistically at that location will someone want to build a one family there as it is a two-family zone with several two-families. He stated that it will be a small two-family and it will not make much of a difference. He continued that moving the lot line would not matter much and would be an undue hardship. They are seeking for these two lots to be validated as they exist and be permitted to build what the zone permits.

Mr. Motta stated the applicant has the right to have their application voted on as presented.

QUESTIONS/ COMMENTS FROM PUBLIC

Al DelConte 545 Locust Avenue asked how this pertains to other 80 ft. lots and if they could now be subdivided into two 40 ft. parcels or if this pertains to only vacant lots. He noted that the property next to him has an 80 ft. frontage and expressed concern about a precedent with homes being demolished for non-conforming subdivisions.

Bruce Paterson, 325 Willow Avenue acknowledged Mary Wanca's longtime community member and this seems to be a hardship case. He noted that there is a precedent with another two-family on the same block that suffered a fire and was rebuilt.

DELIBERATION OF THE BOARD

William Nierstedt stated that there are a number of single family homes on this block. He stated that the Board needs to look at the overall area and the zoning pattern of the Borough.

Mike Vena inquired about the date of the Loechner rule and if the rule applied.

Mr. Vinegra read sections from the Loechner rule and stated it applies.

Kathy Villaggio stated that she doesn't see a reason to reduce the size of the 40 ft. lot, she doesn't have a problem with the existing two-family on a 34 ft. lot.

Jim Mathieu stated that he agrees with Kathy Villaggio.

Gene Jannotti stated that he will vote in favor of this.

William Nierstedt noted that many references have been made to what the zone permits.

He reiterated the ordinance doesn't permit a one or two-family home on a 40 ft. lot.

Mr. Vinegra stated that the applicant is seeking a variance lot width variance. He noted that the new lot in square footage is actually larger than required by larger.

He read a case "Kauffman v Warren" for a C variance in which both lots were conforming in overall area. He stated the Board could use the Kaufman criteria for the granting of the variance.

On a motion by Gene Jannotti and seconded by Robert Scherer the Board voted Affirmative (9) Charles Lombardo, Councilman James Mathieu, Stephen Greet, Kathleen Villaggio, William Nierstedt, Paul Tarantino, Michael Vena, Gene Jannotti, Robert Scherer, Negative (0) to grant a minor subdivision with related variances pursuant to the Kaufman Criteria cited by Mr. Vinegra.

MOTION CARRIES 9-0

RECESS 8:40- 8:45

**Mike Vena recused himself as he resides within 200 ft. of the subject property.*

Case #PB 16-03 123 Willow Avenue

Block 506 Lot 11 R/A Zone

Applicant: **JOHN & MELISSA MARINELLO**

Seeking relief from Section 106-91 bulk requirements for preexisting lot size, with a sideyard variance for a garage.

John and Melissa Marinello were present on behalf of their application and were sworn in. Mr. Marinello stated that they are seeking to add a family room and would like to move their garage up to allow more backyard space. He stated the only new variance they are creating is for the front yard setback. He noted that it is an undersized lot and referenced the plans he submitted. He noted that they will be reducing the impervious coverage by bringing the garage forward. Board members noted that the 18 ft. space to the property line. Mr. Vinegra noted this does not include the sidewalk. The consensus of the Board was that the garage should be pushed back by two feet and have a 20 ft. width driveway and permit the front yard parking. It was noted that there is a sun porch which may be a rear yard encroachment. Mr. Vinegra noted that the deck is a permitted accessory structure and a variance is not needed. He read case law from *Bressman v Gash* in which the courts held that the Board has the discretion to grant a smaller setback in order to allow a house in keeping with the character of the neighborhood.

QUESTIONS AND COMMENTS FROM THE PUBLIC

There were no comments from the public.

*On a motion by Kathy Villaggio and seconded by Stephen Greet, the Board voted Affirmative (8) Charles Lombardo, Councilman James Mathieu, Stephen Greet, Kathleen Villaggio, William Nierstedt, Paul Tarantino, Gene Jannotti, Robert Scherer, Negative (0) to grant a variance for a frontyard setback front yard parking **MOTION CARRIES 8-0***
**Mike Vena returned to the dais.*

CLAIMS- *There were no claims presented for payment.*

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

NEW BUSINESS

Victor Vinegra brought to the Board's attention a request from Brian's Auto on North Avenue for a pylon sign. He distributed Section 106-141 signs in the General Business Zone which prohibits pylon signs unless there are multiple tenants. Mr. Nierstedt stated that a monument sign would be permitted and the Board should consider limiting pylon signs. Mike Vena noted that the property is on a bend and a monument sign would take up parking space. Mr. Vinegra stated that his interpretation is prohibits the pylon for a sole occupied building. The consensus of the Board was that Mr. Vinegra's interpretation is correct.

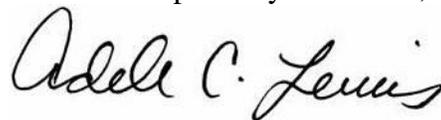
Chair Greet stated that the application packet review committee would consist of the following Board members:

- Mayor Lombardo -Kathy Villaggio- Robert Scherer

ADJOURNMENT - The next meeting of the Planning Board: July 27, 2016

There being no further business, the Board adjourned 9:25 p.m.

Respectfully Submitted,



Adele C. Lewis, Board Secretary