

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of September 25, 2019

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 regularly scheduled meeting of the Board.

MOMENT OF SILENCE AND SALUTE TO THE FLAG

ROLL CALL

Present: Mayor Sara Todisco, Stephen Greet, William Nierstedt, Councilman Richard McCormack, Michael Vena, Ken Capobianco, Kathleen Villaggio, Paul Tarantino, Sergio Simoes (Alt III) Peter Demato (Alt IV)

Absent: None

Excused: Steve Napolitano, John Malcolm (Alt I), Steve Barcan, (Alt, II)

Also present were Board Attorney Donald Fraser, Board Secretary Adele Lewis and Leigh Fleming, P.P., and Victor Vinegra, P.E., P.P. from Harbor Consultants.

MINUTES

- **MINUTES OF THE AUGUST 28, 2019 PLANNING BOARD MEETING**

On a motion by Kathy Villaggio and seconded by Ken Capobianco, the Board by general consent to adopt the minutes of the August 28, 2019 meeting

Master Plan Amendment

PUBLIC HEARING REGARDING MASTER PLAN AMENDMENT AND THE ADOPTION OF A HOUSING ELEMENT AND FAIR SHARE PLAN (HEFSP)

Proposed adoption of an amendment to Borough's Master Plan by means of the adoption of the proposed Housing Element and Fair Share Plan prepared by Jill Hartmann, P.P. These amendments address the planning requirements of the New Jersey Superior Court and the applicable rules and regulations of the New Jersey Council on Affordable Housing for the Borough of Garwood to meet its affordable housing obligation.

Borough Attorney Robert Renaud was present along with Ms. Jill Hartmann, P.P. Mr. Renaud reviewed the history of Affordable Housing and explained that a decision of the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing ("COAH") to the New Jersey Superior Court and

established a transitional process for municipalities like the Borough of Garwood to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans to be constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH.

He recounted the Planning Board's past meetings and stated that this is the "final, final" version of the HEFSP.

Mr. Renaud stated the Planning Board had reserved the right to amend the 2017 HEFSP, if necessary, after the receipt of any decisions rendered by the New Jersey Superior Court regarding the methodology to calculate municipal affordable housing obligations. He explained that the negotiations with the developers has necessitated changes to the HEFSP but noted that they are not substantive.

Jill Hartmann, P.P. was sworn in and explained that certain proposed developments, namely the Paperboard site, have evolved as a result of negotiations between the developers and the Borough; and such changes in those developments have mandated changes in the HEFSP. She stated that the number of overall units and the affordable units triggered the revisions. Board members asked questions of Ms. Hartmann.

Mr. Nierstedt continued to express concern with the inclusion of the Paperboard Company site in the plan as he does not support any housing at Paperboard. He noted that when this Element/Plan was first submitted for review, he advised supporting it in order to protect the Borough from a builder's remedy lawsuit, but then changing it immediately to remove Paperboard from the plan to provide the requisite housing elsewhere. He feels this is not consistent with the Master Plan but recognizes that the Borough must move forward with this. He stated he would not be supporting the resolution.

QUESTIONS/COMMENTS FROM THE PUBLIC- None

Mr. Renaud prepared a Resolution for the Board's consideration. Mr. Renaud asked that the Planning Board adopt the revised HEFSP as an amendment to the Master Plan of the Borough of Garwood and recommends that the Mayor and Council adopt and implement same.

On a motion by Kathy Villaggio and seconded by Stephen Greet, the Board voted Affirmative (8) Mayor Sara Todisco, Stephen Greet, Councilman Richard McCormack, Michael Vena, Ken Capobianco, Kathleen Villaggio, Paul Tarantino, Sergio Simoes Negative (1) William Nierstedt to adopt the December 2018 HEFSP as an amendment to the Master Plan of the Borough of Garwood and recommends that the Mayor and Council adopt and implement same. MOTION CARRIES 8-1

APPLICATIONS

Case #PB19-06 502 Spruce Ave. Block 307 Lot 14 **R/A Zone**

Applicant: William & Tammy Kleeman

Seeking a Variance for front yard setback (West St.) which requires 12.5 ft. to permit .1 ft. for an addition

Councilman McCormick recused himself due to a personal relationship with the applicants' family.

William & Tammy Kleeman were present on behalf of their application and were sworn in.

Mrs. Kleeman reviewed the information provided and stated that they would like to build an addition on their home and enclose and build above the porch which fronts the West Street side of their home.

MARKED INTO EVIDENCE:

- A-1- A-5 Color photos of various angles of the house

Mrs. Kleeman stated that they desires to utilize this space as a mudroom and closet space. She stated the porch is deteriorating and has not been used in about 2 years. When asked if the mudroom could be built in a location that would be in compliance with the ordinance, she stated that they want to maintain their limited backyard space for their children. Mrs. Kleeman stated that they have been in the home for several years and noted that other properties in the area have side porches. She stated that the addition will also expand their second floor and provide an attic space to be used as a playroom for the children.

It was noted that the porch is on piers and does not have a foundation. It was also noted that the oversized garage was granted by variance several years ago.

QUESTIONS/COMMENTS FROM THE PUBLIC

John Ament, 450 Myrtle Ave stated that he doesn't see a problem with the addition and the applicants are hardworking people trying to improve their home.

While some Board members were supportive of the efforts of the homeowners to improve their home, others expressed concern regarding setting a precedent of building up to the property line and a negative impact on the community as opposed to personal benefit. Board Attorney Fraser noted that there had been no planning testimony given and if approved, writing a resolution meeting the criteria of the law would be difficult.

The Board asked if the applicants would consider some type of compromise in which a revision with 2 ft. setback from the property line would be considered. Ms. Kleeman stated that while she is not opposed to a revision, she was concerned about the associated costs and the potential for an ultimate denial. The Board took a straw poll to ascertain support for a revised proposal and it was a 50/50 split. It was noted that the regular members not present would be qualified to vote on a subsequent revision if they listen to the audio of this meeting.

The applicants requested that the application be amended to remove the proposal of the porch. Mrs. Kleeman inquired if she could reconfigure the interior layout and was advised that she could in accordance with building codes.

On a motion by Kathy Villaggio and seconded by Stephen Greet, the Board voted Affirmative (9) Mayor Sara Todisco, Stephen Greet, William Nierstedt, Michael Vena, Ken Capobianco, Kathleen Villaggio, Paul Tarantino, Sergio Simoes, Peter DeMato, Negative (0) to grant the application as amended through testimony to permit the removal of the porch and provide variance relief for the addition to be congruent with the first floor. The applicant will remove the porch and relocate the fence currently located in the public right of way. MOTION CARRIES 9-0

A BRIEF RECESS WAS TAKEN

Case #PB19- 05

10 South Ave. Block 501.01, Lot 8 C/ C zone

Applicant: Lidl U.S. Operations, LLC Community Commercial Zone.
Preliminary & Final Site Plan w/Variances for a supermarket

As required by ordinance, a court reporter was present

ATTACHMENT # 1
TRANSCRIPT FROM CASE # PB 19-05
LIDL U.S., LLC

Stephen Hehl, Esq. of Javerbaum Wurgaft, Union NJ continued to represent the applicant. He stated he would be relying on the testimony from the May meeting in with the Board provided an feedback to the applicant for the site improvements.

Brad Bohler, P.E., P.P Scotch Plains, NJ, previously sworn and qualified reviewed the site layout. The Board inquired about the location of the shopping cart corral at the front of the store.

MARKED INTO EVIDENCE:

- A-2 Colorized version of site plan dated 9/25/19
- A-3 Colorized version of signage

The Board asked questions of Mr. Bohler.

QUESTIONS FROM THE PUBLIC

Jeffrey Brennan, Esq. stated that he is representing Fred & Faith Balsamo, 233 Locust Ave. asked questions of Mr. Bohler.

Mr. Hehl inquired if the Balsamo's lived within 200 ft. of the site. Mr. Brennan stated they do not.

Chelsea Rawson, R.A., was sworn and qualified. She reviewed the existing conditions and the proposed elevations.

MARKED INTO EVIDENCE:

- A-4 signage
- A-5 Colorized elevations with signage depicting the verbiage "Food Market"

QUESTIONS FROM THE PUBLIC

Jeffrey Brennan, Esq. asked questions of Ms. Rawson

John Harter, P.E., of Atlantic Traffic, was sworn and qualified as an expert in Traffic engineering. He stated that Lidl will generate less traffic than the previous store and the site has more parking than needed.

QUESTIONS FROM THE PUBLIC

Jeffrey Brennan, Esq. asked questions of Mr. Harter.

Erika Alman, Real Estate manager for Lidl, Morris Plains, NJ was sworn in. She provided a background of the corporation and an overview of Lidl operations

QUESTIONS FROM THE PUBLIC

Jeffrey Brennan, Esq. asked questions of Ms. Alman

Chairman Greet noted the lateness of the evening and stated that it would be prudent to hold off the next witness until the next meeting. He noted that the October 9th meeting was the Jewish Holiday and there would be some absent members. He informed the applicant that their case would be heard at the October 23, 2019 meeting. The applicant will not be required to provide new legal notice and the public was informed of the next hearing date.

Invitation to the Public to Address the Board

Chair Stephen Greet asked if anyone would like to address the Board.- No Comments

CLAIMS

The following claims were presented for payment and approved.

To Victor Vinegra of Harbor Consultants:

- Invoice # 28887 for \$4992.50 from the escrow of Russo I-South Ave-
- Invoice # 28893 for \$1015.00 from the escrow of 345 South Ave
- Invoice # 28888 for \$637.50 from the escrow of 3 Lincoln Avenue
- Invoice # 28889 for \$420.00 from the escrow of Russo II-South Ave

OLD/NEW BUSINESS

Mayor Todisco updated the Planning Board on the revision to the Board's review of Ordinance to amend provisions of Land Use Ordinance to revise regulations to require electronic submission of applications.

While the Board recommended that a subsection be added – Section 1 **(D)** stating “*The obligation shall not go into effect until the application is deemed complete.*” Mayor Todisco stated that this caused concern as it would not satisfy the goal of having all materials electronically for purposes of the Open Public Records Act (OPRA).

Victor Vinegra provided an update on the status of 3 Lincoln Ave. and stated that work is progressing.

A motion was to authorize the Borough Clerk/Administrator to solicit bids for the Board Attorney and Board Engineer.

Chair Greet stated that the October 9th meeting would be cancelled and the next meeting of the Board is scheduled for October 23, 2019.

ADJOURNMENT

There being no further business, the Board adjourned 10:45 p.m.

The next scheduled meeting of the Board is October 23, 2019.

Respectfully Submitted,
Adele C. Lewis, Board Secretary