

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of October 23, 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, Steve Napolitano, John Malcolm (Alt I), Steve Barcan, (Alt, II)

Absent: None

Excused: Sergio Simoes (Alt III), Peter Demato (Alt IV)

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

MINUTES

- **MINUTES OF THE SEPTEMBER 25, 2019 PLANNING BOARD MEETING**

On a motion by Kathy Villaggio and seconded by Mike Vena, the Board by general consent to adopt the minutes of the September 25, 2019 meeting

RESOLUTION

Case #PB19-06

502 Spruce Ave. Block 307 Lot 14 R/A Zone

Applicant: William & Tammy Kleeman

Granting a Variance for front yard setback (West St.) to encroach no closer to the street line of the existing house (Without porch)

On a motion by Kathy Villaggio and seconded by Stephen Greet, the Board voted Affirmative (7) Mayor Sara Todisco, Stephen Greet, William Nierstedt, Michael Vena, Ken Capobianco, Kathleen Villaggio, Paul Tarantino, to memorialize the wording of the resolution granting 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.

APPLICATIONS

Case #PB19-07

219 Cedar Street R/A Zone

Applicant: GDSC, LLC

Seeking a Certificate of Non-Conformity for a two-family house in a one family zone

Chair Greet announced that this application would not be heard this evening. He stated that it would be carried to the Board's next meeting of November 13th without the need for further notice.

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

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

Mayor Todisco read a statement into the record addressing the 9-26-19 letter from Mr. Brennen who represents the objector. She recused herself and left the meeting.

Bill Nierstedt read a statement into the record addressing the 9-26-19 letter from Mr. Brennen who represents the objector. He recused himself and left the meeting.

Stephen Hehl, Esq. of Javerbaum Wurgaft, Union NJ continued to represent the applicant.

Ben Crowder P.E., of Bohler Engineering, NJ, was sworn and qualified. Based upon the previous inquiry from the Board about the location of the shopping cart corral at the front of the store and the lighting, he presented the following exhibits. He stated that there will be all new poles and all the lighting will be upgraded. He added that any trees needing to be replaced will be replaced in addition to 10 new street trees.

MARKED INTO EVIDENCE:

- A-6 New LED Lighting plan
- A-7 Proposed Façade design dated 10/9/19

The Board asked questions of Mr. Crowder.

QUESTIONS FROM THE PUBLIC

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

John McDonough, P.P., was sworn and qualified. He provided planning testimony and stated that relief can be granted under the C-1 or C-2 criteria. He continued that this is a permitted use

and has functioned as a supermarket since the 1980's. He stated that this piece of property is a single tax lot, Block 501, Lot 8 and is oversized and sideways in terms of orientation. He added that the parking lot has been reconfigured so the aisle widths and the parking lot spaces are now conforming.

He continued that this is an adaptive reuse, which will not entirely take over the building but a portion of the building with modest modifications to the site as it presently exists. He noted the clear lack of residential uses in the immediate area and reviewed the zoning of the subject site stating it is in the CC Zone, the Community Commercial Zone, it's a zone where the use is permitted.

MARKED INTO EVIDENCE:

- A-8 planning exhibit consisting of 5 pages

QUESTIONS FROM THE PUBLIC:

Jeffrey Brennan, Esq. asked questions of Mr. McDonough

Jeffrey Brennan, Esq. introduced the objector planner.

Barbara Wooley-Dillon, P.P. who was sworn and qualified. She provided planning testimony for stated that she feels this would require the granting of a use variance. Regarding the signage, she stated there's no demonstration that the signage facing the parking lot that there's going to be any reduction. She also expressed concern as the use of the other space or spaces is unknown at this time, so how much total signage for those uses is undetermined.

The Board asked questions of Ms. Wooley-Dillon.

A Brief Recess was taken.

COMMENTS FROM THE PUBLIC: None

Mr. Brennan provided a summation.

Mr. Brennan stated that the two Board members recusal did not go far enough as the application had been tainted. He stated that the Board is comprised as a planning board and doesn't have jurisdiction as he feels this application implicates a use variance, a "D" variance that can only be granted by a Zoning Board of Adjustment. He referenced the zoning ordinance and stated there's an express provision that says no more than one principal use on one single lot.

Mr. Hehl provided a summation.

Mr. Hehl stated the applicant is taking a vacant supermarket and repurposing it with another supermarket. He continued that the applicant has responded to the Board's comments by designing this site, reducing the amount of signage, removing a free-standing sign, putting a monument sign, agreeing to reconfigure the parking lot, adding street trees, and adding trees within the parking lot area.

He stated that this a mixed-use development and the mixed-use development is one of the main purposes of the zone. He continued that this zone's primary purpose is to encourage and promote the conversion of underutilized industrial properties to active mixed-use areas. "A development of a tract of land" -- not plural, singular -- "with structures with a variety of complimentary and integrated uses such as but not limited to retail, service businesses and office businesses."

He stated that the other empty space could be a mix of things, such as an office use, or service. And noted It doesn't have to be retail as it is a Mixed-Use Zone.

Deliberations of the Board.

The consensus of the Board was that the applicant had been responsive to the concerns and comments of the Board and to grant the approval for the site plan and the variances requested, consistent with the testimony on the record at the three hearings, and subject to the conditions of Mr. Vinegra's review letter except as contradicted and changed at the three hearings, and specifically including but not limited to the bicycle rack, the 26 trees, the milling and repaving and re-striping of the parking lot in accordance with the conditions of the ordinance that pertain to proper parking space size and proper aisle size, and including the front fire door and including the increase of the handicap spaces consistent with applicable regulations in Mr. Vinegra's letter.

It was noted that any absent members from the previous hearings had read the transcripts and provided certifications for the file and were therefore qualified to vote.

*On a motion by Mike Vena and seconded Steve Napolitano, the Board voted Affirmative (9) Stephen Greet, Councilman Richard McCormack, Michael Vena, Ken Capobianco, Kathleen Villaggio, Paul Tarantino, Steve Napolitano, John Malcolm, Steve Barcan, Negative (0) to grant site plan approval in the matter of Lidl Supermarkets.
MOTION CARRIES 9-0*

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 Donald Fraser, Esq. for legal services rendered from March- October (8 Meetings) in the amount of \$6960.00

To Victor Vinegra of Harbor Consultants:

- Invoice # 29043 for \$8220.00 from the escrow of Russo -South Ave- redevelopment
- Invoice # 29048 for \$1015.00 from the escrow of 10 South Ave
- Invoice # 29050 for \$1982.50 from the escrow of PaperBoard North Ave
- Invoice # 29022 for \$217.50 from the escrow of PaperBoard North Ave
- Invoice # 29021 for \$1840.00 from the escrow of PaperBoard North Ave

ADJOURNMENT

There being no further business, the Board adjourned 10:25 p.m.

The next scheduled meeting of the Board is November 13, 2019.

Respectfully Submitted,

Adele C. Lewis, Board Secretary