

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of February 28, 2024

Chair Greet opened the meeting at 7:30 p.m. and read the following:

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 Union County Hawk on December 21, 2023 and by filing of said notice in the office of the Municipal Clerk. This is a regularly scheduled meeting of the Board.

Flag Salute – Moment of Silence

ROLL CALL

Present: Mayor Jen Blumenstock, Stephen Greet, Kathleen Villaggio, Ken Capobianco, William Nierstedt, Stephanie Bianco, Steve Barcan, Richard McCormack Mary Ann Hay (Alt I), Alt. III & Alt. IV - VACANT

Absent: None

Excused: Councilwoman Kim Salmon, David Beyers (Alt. II)

Also present were Board Attorney Donald Fraser, Board Consultant Gabe Bailer, P.P. and Board Secretary Adele Lewis. Mr. Vinegra arrived at 8:40 p.m.

MINUTES

• **MINUTES OF THE JANUARY 10, 2024 PLANNING BOARD MEETING**

On a motion by Kathy Villaggio and seconded by Ken Capobianco, the Board voted by general consent to adopt the minutes of the January 10, 2024 Planning Board meeting.

APPLICATIONS

Case #PB21-04 (A)

113-115 Winslow Place (Continuation)

Block 209 Lot 15 R-B Zone

Applicant: 231 1st Ave LLC C/O Cesar Espejo

Seeking amended site plan for the previously approved expansion of a non-conforming 3-family residence for alteration of the front façade, side yard setback for condenser units, lot coverage and privacy panels on the rear deck

Scott Pyfer, Esq. continued to represent the applicant. He referenced the testimony from the December 13, 2023 meeting.

Mr. Ed Dec, P.E., P.L.S., was sworn and qualified. He spoke to the information he submitted.

- Plans prepared by Guarriello & Dec Assoc. with a revision date of February 14, 2024
- Amended Drainage Report prepared by Guarriello & Dec Assoc. dated February 16, 2024
- Engineering Review Comments response letter dated February 14, 2024.

Mr. Dec reviewed the Harbor Consultant letter with the most recent revision date of 2/26/2024. Mr. Dec reviewed the Engineering Review Comments and spoke to the items which were not yet fully addressed. With regard to the drainage, Mr. Dec stated that he had not seen the maintenance plan of the drainage system due to a financial dispute between the applicant and the prior engineer. It was noted that this is a continuing comment, the Applicant says that soil testing was conducted but the test results are not provided.

Mr. Cesar Espejo, applicant from Elizabeth, NJ was sworn in. He agreed that a condition of approval could be to provide the stormwater reports. Mr. Bailer stated this was acceptable. Mr. Espejo was asked about the sideyard setback and the condenser unit encroaching. Mr. Espejo stated that there is a 30-inch sideyard with the placement of the condenser.

Mr. Nierstedt identified several inaccuracies on the plans, dimensioning, landscaping. He stated the paving detail was lacking and inquired why the information on the original plans was not included.

Mr. Dec stated that he did not have access to the original plans.

Mayor Blumenstock inquired why the concrete sidewalk to the side of the house was not removed, as previously discussed at the December meeting.

Mr. Barcan stated he feels there is too much impervious coverage on the lot.

Ms. Hay stated that the lighting in the parking can not be remedied without a pole, which would be ill advised.

Mr. McCormack stated that an approval would be a very bad precedent as these variances are self-created.

QUESTIONS OF THE PUBLIC – None

Matthew Flynn, P.P., Morris Plans, NJ, was sworn and qualified. He presented the following exhibits via screen sharing.

EXHIBITS MARKED Aerial photos show electronically - to be sent to the Board Secretary

- A-4 straight down shot of subject property w/view of adjacent properties
- A-5 Zoomed in view of previous slide
- A-6 View from the rear of the property

Mr. Flynn stated that when the application was approved in 2022, at which time the Board requested the additional parking spot. Unfortunately, this increased the impervious coverage and reduced the open space without specifics. He noted that while concrete sidewalk space is included in the impervious coverage, it also can be counted as open space pursuant to the Borough ordinance as useable outdoor area. He stated it is a better alternative to have the trash cans at the rear of the property.

A discussion of the condenser placement ensued and the dimensions of the sideyard.

Mr. Flynn stated that he recognizes the Board is in a difficult position as the approval was not adhered to, he however opined that he believes there is enough open space and this is

the design that came out of the original approval. He referenced the neighboring properties. Mr. Flynn stated that the C-2 balancing test is met, the site can accommodate the 4th parking space and the impact to the neighbors is mitigated.

QUESTIONS OF THE BOARD

Have calculations been done? No, they have not the photos were used for comparison of similar properties to draw the comparison to the shape and size of the parking area.

QUESTIONS OF THE PUBLIC – None

COMMENTS FROM THE BOARD

Mr. Barcan stated the backyard has excessive blacktop and looks like a commercial property. He would prefer to see more grass and the Planners comparison were not relative and lacking in information.

Ms. Hay requested clarification on the placement of the grass pavers. Mr. Pyfer stated that 18 ft. in width.

Mr. Nierstedt recounted that Mr. Espejo previously stated this was his first project with a three family and not familiar with the process. He thanked him for planting the correct trees. He stated that there are flooding problems due to excessive impervious, not only at this site, but others as well. He would be in favor of granting a waiver for lighting as it is a residential area. He noted the stone has been thrown haphazardly and has bowed the fence.

Mr. Capobianco stated that the applicant is being given deference for inexperience but a previous witness testified to how qualified Mr. Espejo is as a developer. Additionally, the condensers should not have been placed in their current location due to poor air flow. Mr. Capobianco stated they should be placed at the rear of the property as required.

Mr. Bailer reviewed the variances required from the Harbor Consultant review letter.

1. Accessory use structure in side yard – relief from §106-107.E which states “No permanent accessory structure, regardless of size, or presence or absence of a foundation, shall be erected any closer than three feet to a side yard property line or two feet to a rear yard property line.” He noted three condenser units are installed in the side yard closer than three feet to the side yard.

2. Max. Lot Coverage relief from §106-93.C(9) Max. permitted – 60% Proposed – 70.54%

3. Min. Open Space relief from §106-93.C(6) Min. required - 50% • Proposed – 20.08%

Mr. Nierstedt made a motion to grant the waiver for lighting, the grasscrete pavers be accepted as proposed as surface for the parking but that the open space variance not be granted and that the concrete on the side of the building be removed, move the condenser units to comply with code. Mayor Blumenstock inquired if each variance could be voted on separately. Mr. Fraser stated that the application is usually considered in totality.

Board Attorney Don Fraser clarified the language for the motion, identifying the waiver for lighting, partially grant the variance for Open Space, the impervious coverage to be granted with the calculations for the grasscrete, the sideyard variance with the accessory structure will be granted with the condenser being moved to be compliant to code.

Mr. Pyfer stated the condensers have been approved by the Construction Dept. Mr. Fraser noted that the approvals could be erroneous. The applicant is not agreeable to the suggestion of removing the concrete sidewalk.

A Straw poll was taken on each item: Lighting waiver was unanimously agreed upon The Variance for Open Space should be granted with the majority agreeing but it was not unanimous.

Lot coverage- majority agreement to grant the variance as modified accepting the grasscrete as part of the calculation but also eliminating concrete in a few areas in front the back and side of the property.

Sideyard Variance for relief the condensers yes, to permit to remain in sideyard but if the Construction Dept requires movement should they be moved away from the building if the required.

Approval would be subject to the comments in Harbor Consultants review and the testimony provided.

Chair Greet directed Mr. Bailer work with the applicant on the conditions of approval.

*On a motion by William Nierstedt and seconded by Mayor Blumenstock the Board voted affirmative (7) Mayor Jen Blumenstock, Stephen Greet, Kathleen Villaggio, William Nierstedt, Stephanie Bianco, Steve Barcan, Mary Ann Hay, Negative (2) Ken Capobianco, Richard McCormack to grant a waiver for lighting, the Variance for Open Space, grant the variance for Lot coverage- as modified accepting the grasscrete pavers as part of the calculation but also eliminating concrete in a few places in front, the back and side. Granting the Sideyard Variance for relief the condensers to permit them to remain in sideyard. If the Construction Dept. requires movement of the condenser, they should be moved away from the building even if further encroachment is required. The Approval is subject to satisfying the comments in Harbor Consultants review and pursuant to the testimony provided. **MOTION CARRIES 7-2***

Case PB24-01

110 South Avenue

Block 501.01 Lot 7.01 C/C Zone

Applicant: 125 – 165 Howard Street, LLC

Seeking Use Variance to permit warehouse & distribution

Together with Site Plan approval with parking variance

Mayor Blumenstock recused herself from hearing the D Variance and left the dais.

As required by ordinance, a court reporter was present- TRANSCRIPT - **ATTACHMENT #1**

Gary Goodman, Esq. Cranford represented the applicant described the subject property and provided an overview, stating the building lends itself to a warehouse use.

He stated the applicant proposes to occupy Space B for a warehouse use, and add landscaping to the two existing planting beds in the parking lot. There are no additions to the building or any other site improvements. A warehouse use is not permitted in the CC Zone and requires a d (1) use variance.

Joseph Terzi, Brooklyn, NY owner 125 – 165 Howard Street, of the property was sworn in. He stated he is excited at the prospect of opening a business in Garwood.

Mr. Chernykh was sworn in and explained his distribution business. He stated that they have a store in Bayonne. He described the day-to-day operations. He testified to the number of employees, hours of operation and truck deliveries.

Joseph Staigar, P.E, P.P., was sworn and qualified as a civil and traffic engineer and planner. He reviewed site circulation and provided planning testimony. He stated that the proposed use is a better, more viable use than the permitted uses.

QUESTIONS FROM THE PUBLIC: None

The previous approval for the fencing school was referenced. It was noted that some of the conditions from that approval were never completed, such as site cleanup and the planting of trees. Mr. Nierstedt indicated he would like to see the two trees planted from the previous approval as well as two additional trees. Mr. Staiger stated that this might result in the loss of two parking spaces.

The Board discussed the pros and cons of this. The consensus was to make the approval subject to the conditions that the applicant install the already required two trees and two additional shade trees.

The Board discussed further conditions. Gabe Bailer will work with the applicant who will install two previously required street trees plus two additional trees. The applicant agreed that to Mr. Bailer's comment that there be no overnight storage of containers.

On motion by Mr. McCormack and seconded by Mr. Nierstedt the Board voted Affirmative (7) Stephen Greet, Kathleen Villaggio, William Nierstedt, Ken Capobianco, Richard McCormack, Stephanie Bianco, Steve Barcan, Mary Ann Hay, Negative (0) to grant the Use Variance together with Preliminary and Final Site Plan Approval to permit warehouse & distribution together with Site Plan approval with parking variance with a condition for no overnight storage of containers on the property.

MOTION CARRIES 7-0

OLD BUSINESS

2 Laxmee, LLC, 2 North Ave. discussion of the extension of approval.

Mr. Vinegra spoke with the owner of Laxmee who would like to phase the construction, which would be an amendment to the original approval. She will provide amendments. Victor recommends at least elevations depicting the various phases.

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

Harbor Consultants- December Invoices

Inv. # 04457 from escrow of South Ave. Redevelopment Plan Phase I in the amount of \$362.50

Inv. # 04458 from escrow of South Ave. Redevelopment Plan Phase II in the amount of \$290.00

Inv. # 04558 from escrow of South Ave. Redevelopment Plan Phase II in the amount of \$817.50

Inv. # 04462 from escrow of 231 North Ave /Dish Wireless in the amount of \$145.00

Inv. # 04463 from escrow of Popeyes South Ave in the amount of \$435.00

Inv. # 04564 from escrow of Popeyes South Ave in the amount of \$2840.00

Inv. # 04461 from escrow of 113-115 Winslow in the amount of \$1160.00

Inv. # 04561 from escrow of 113-115 Winslow in the amount of \$72.50

Inv. # 04459 from escrow of 75 North Garden Homes in the amount of \$787.50

Inv. # 04559 from escrow of 75 North Garden Homes in the amount of \$1952.50

Inv. # 04563 from escrow of 110 South Ave /Adv fencing in the amount of \$797.50

ADJOURNMENT - There being no further business, the Board adjourned 10:50 p.m.

The next regularly scheduled meeting of the Board is March 27, 2024, 2024

Respectfully Submitted,

Adele C. Lewis, Board Secretary