

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of June 28, 2023

Chair Stephen 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 29, 2022 and by filing of said notice in the office of the Municipal Clerk. The zoom access link can also be found on the Borough website. This is a regularly scheduled meeting of the Board.

Flag Salute – Moment of Silence

ROLL CALL

Present: Mayor Jen Blumenstock, Councilman Vincent Kearney, Stephen Greet, Kathleen Villaggio, Ken Capobianco, William Nierstedt, Richard McCormack, Paul Tarantino, Stephanie Bianco, Steve Barcan *attending remotely* (Alt. I), Mary Ann Hay (Alt II), (Alt. III) Alt. IV - VACANT

Absent: None

Excused: None

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

MINUTES

• **MINUTES OF THE MAY 24, 2023 PLANNING BOARD MEETING**

On a motion by Ken Capobianco, and seconded by Kathy Villaggio, the Board voted by general consent to adopt the minutes of the May 24, 2023 Planning Board meeting.

ORDINANCE REVIEW

Pursuant to N.J.S.A. 40:55D-26 - Review of Ordinance 23-13 *to amend the South Avenue Transit Oriented Redevelopment Plan to allow pharmacies not to exceed 3000 sq. ft.*

The Board discussed the proposed ordinance. Chair Greet noted Mr. Minks of Russo Development was present at the March 22, 2023 meeting and the Board had detailed discussion on this matter. Mayor Blumenstock added that the Council also heard a presentation from Mr. Minks and had discussion spanning a few meetings.

Ms. Villaggio stated she was in favor of the ordinance but noted there were a few housekeeping items to address.

She stated that on pg. 3, remove ‘and cannabis prohibited to J. Cannabis prohibited under uses prohibited for clarity.

On a motion by Ms. Villaggio and seconded by Mr. McCormack, the Board voted Affirmative (7) Stephen Greet, Kathleen Villaggio, Richard McCormack, Paul Tarantino, Stephanie Bianco, Steve Barcan, MaryAnn Hay, Negative (2) Ken Capobianco, William Nierstedt to recommend the Governing Body adopt Ordinance 23-13 to amend the South Avenue Transit Oriented Redevelopment Plan to allow pharmacies not to exceed 3000 sq. ft. MOTION CARRIES 7-2

APPLICATIONS

Mr. Vinegra did not participate in the case as he resides within 200 ft. of the subject property.

Case #PB23-03

402 Hazel Avenue_Block 605 Lot 14 R-A Zone
Applicant: Michael Zimmerman
Seeking relief from Section 106-91 which requires a 35 ft. rearyard setback to permit a 30 ft. rearyard for an addition.

Michael Zimmerman, 402 Hazel Avenue was sworn in and stated that he is here for a variance for a rearyard setback for a modest addition which will project 5 ft. into the required rearyard. He noted the addition will be two-stories and be 16.10 wide on a 60 ft. lot.

He testified to the following:

- He moved into Garwood and resided at the Loft prior to the purchase of his home.
- His family is growing and they are expecting their second child.
- The addition will be two stories and not encroach further into the sideyard.
- The expansion will allow for the addition of a den on the first floor and a home-office and walk in closet on the second floor.
- The office space is necessary to accommodate the couple's work from home schedule.
- The neighbors were served notice and there were no objections to the proposal.
- There are similar rearyard setbacks in the neighborhood
- The HVAC unit, which is currently encroaching in the sideyard setback will be moved to a compliant location.
- The proposal allows for the best flow and functionality to accommodate their needs.

The Board asked for more information in the C-2 justification and if an attempt was made by the architect to conform with the zoning ordinance. Mr. Zimmerman reiterated that the rooms would be very narrow and would require reworking the interior space, which they were hoping to eliminate as they will be residing in the home during construction. The Board inquired about the number of bedrooms currently in the home. Mr. Zimmerman stated there are currently 4 bedrooms.

Don Fraser reviewed the flexible C-2 legal standard and the balancing test. He stated that there has been no articulated objection and eliminating the non-conformity of the AC unit protruding into the side yard could be considered a benefit.

Mayor Blumenstock stated that she sees it as a benefit to the community and it is not a huge square footage issue. She added that she supports homeowners improving their homes.

Mr. Nierstedt referenced the legal argument for the C-2 public loss versus private benefit, and stated there is no hardship here.

Ms. Hay noted that there are no neighbors objecting and it is a relatively small addition.

Mr. Barcan stated that the board is being light with the interpretation of public benefit. Ms.

Villaggio noted the application was requesting C-1 variance relief and if this would be an issue.

Mr. Fraser reviewed the notice and determined it was deficient as the notice referenced the seeking of C-1 relief and did not include the language to provide for any additional relief as warranted. He provided Mr. Zimmerman with the option of continuing his case to the next meeting with the requirement for renote or start the process from the beginning. He explained that the Board does not have jurisdiction when notice is deficient.

Mr. Zimmerman requested to be carried to the July 26th meeting with new notice required identifying the C-2 variance. It was noted that there are previously scheduled matters for this meeting date and there was a possibility he would not be heard. Mr. Zimmerman stated he would like to be scheduled for this meeting as further meeting dates might conflict with his wife's due date. Mr. Fraser offered to review the notice prior to publication. He added that if Mr. Zimmerman was not reached on July 26th, the Board would consider carrying his notice to the August meeting date.

On a motion by Ms. Villaggio and seconded by Mr. McCormack, the Board voted Affirmative (9) Stephen Greet, Kathleen Villaggio, Richard McCormack, Paul Tarantino, Stephanie Bianco, Steve Barcan, MaryAnn Hay, Ken Capobianco, William Nierstedt Negative (0) to continue the matter to the July 26, 2023 meeting date with the requirement of new legal notice requesting a C-2 variance.

Case #PB23-02

247 – 249 Second Avenue Block 207 Lot 5 R-B Zone
Applicant: Allan Tabak
*Seeking a Use Variance for a three-family
Residence in the R-B / two- family zone*

Mayor Jen Blumenstock and Councilman Vincent Kearney recused themselves from hearing the application and left the dais.

As required by ordinance, a court reporter was present.

John Horan, Esq., of Horan & Aronowitz, LLP, Cedar Knolls, NJ represented the applicant and provided an overview of the application. He stated they are requesting a bifurcated application in which the Board would only vote on the Use Variance for the three-family use. If successful, they would return for site related issues. Board Attorney Fraser stated the Board could decide on the three-family use only.

Mr. Nierstedt stated that he is not in favor of waiving the site plan requirement. He noted that parking was integral to the application. Mr. Capobianco stated that he would like to see a floor plan for the proposed three-family and perform a site inspection. Mr. Tarantino and Mr. McCormack agreed that the information was needed for an informed decision. Chair Greet noted that decision of the Three-family could be given consideration without the site details, as no major exterior work is proposed. Ms. Villaggio and Ms. Bianco agreed.

On a motion by Kathleen Villaggio and seconded by Chair Greet, the Board voted Affirmative (3) Stephen Greet, Kathleen Villaggio, Stephanie Bianco Negative (4) Ken Capobianco, William Nierstedt, Richard McCormack, Paul Tarantino, to proceed with the bifurcated Use Variance and defer the site plan to a later date. MOTION FAILS 3-4

Board Attorney Fraser announcement that the application would be scheduled for the first meeting in October, October 11th. The applicant will submit the site plan and notice for the meeting.

NEW BUSINESS

MASTER PLAN

It was announced that the Master Plan has been completed and a draft is now available. The September meeting will be designed for Master Plan public hearing. The draft will be circulated to Board members and placed on website in advance to encourage public engagement and comment.

FEES

Kathy Villaggio noted that the subcommittee examined the fees and found they are in line with surrounding community. She recommends that no action be taken at this time.

Mr. Zimmerman approached the Board to inquire if the language in his notice “Any and all variances and waivers” provided sufficient jurisdiction for the Board. Mr. Fraser stated he inadvertently missed that in his initial reading however the announcement had been made carrying the case so the Board could not act this evening. The matter remains carried to July 26th.

William Nierstedt stated that 113-115 Winslow Ave is not being built according to the approved plans. He feels the stoop is into the public right of way requiring the approval of council. Additionally, the HVAC is in the setback encroaching.

Chair Greet opened this topic up for a discussion.

Mr. Vinegra stated that the three dormers are not built to the approved plans. He stated that there was a meeting today at the site with the Construction Code Official. He cited that the ordinance does permit protrusion into the setback however not closer than 2 ft. from the property line. He suggested that the developer could come back for amended site plan. The Construction Code Official has already informed the developer. Mr. Vinegra and the Cranford Building department will continue to monitor the site.

INVITATION TO ADDRESS THE BOARD

Tom Evelina, Garwood, commented on the short-term rental discussion and rental registration ordinance.

CLAIMS

- *Inv # 03421 from escrow of South Ave. Redevelopment Phase II in the amount of \$7915.00*
- *Inv# 03424 from the escrow of 231 North Ave./Dish Wireless in the amount of \$290.00*
- *Inv# 03426 from the escrow of 10 South Ave. / Popeyes in the amount of \$3697.50*

ADJOURNMENT - There being no further business, the Board adjourned 9:40 p.m.

The next meeting will be July 26, 2023.

Respectfully Submitted,

Adele C. Lewis, Board Secretary