

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of July 26, 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 *attending remotely*, Councilman Vincent Kearney, Stephen Greet, Kathleen Villaggio, Ken Capobianco, William Nierstedt, Richard McCormack, Stephanie Bianco, Steve Barcan *attending remotely* (Alt. I), Mary Ann Hay (Alt II), (Alt. III) Alt. IV - VACANT

Absent: None

Excused: Paul Tarantino

Also present were Board Attorney Donald Fraser, Gabe Bailer, P.E. of Harbor Consultants was present for Victor Vinegra, P.E., P.P. and Board Secretary Adele Lewis.

MINUTES

• **MINUTES OF THE JUNE 28, 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 June 28, 2023 Planning Board meeting.

APPLICATIONS

Case #PB23-04

551 Spruce Avenue - Carried to August 23, 2023

Block 309 Lot 4 R-A Zone

Applicant: Robbin Unnold, Executor of Estate of Rita Unnold

Seeking a Certificate of non-conformity for a two-family

Residence in the R-A / single family zone.

Chair Greet announced that the Board would be carrying the notice to the August 23rd meeting date with no further notice required. Board Attorney Don Fraser noted for the record that he had submitted a letter to the Board dated 7/25/2023 and for the file stating his conflict for this case, which was only recently discovered. A substitute attorney will be retained for the August 23rd meeting.

Chair Greet announced that the order of the agenda has changed. He announced that 402 Hazel Ave. continuation would be heard first.

Continuation of 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.

Board Attorney Don Fraser stated that he had initially ruled that the notice was inadequate at the June 28th meeting, however upon further review he feels it was sufficient. He noted that the announcement had been made that the case was being carried so the Board couldn't proceed and the neighbors received extra notice.

Stephen Hehl, Esq. represented the applicant.

Michael Zimmerman, 402 Hazel Avenue was previously 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 reviewed his previous testimony:

- He moved into Garwood 10 years ago as a renter 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.
- He feels the investment into his property is a benefit to the community

Steve Hehl noted the balancing requirement and stated the application meets the criteria.

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.

Chair Greet stated that he can relate to the applicant as he expanded his home with his growing family which enabled him to stay in his home.

Mr. Nierstedt referenced the legal argument for public loss versus private benefit, and stated there is no real public benefit here. He noted that while he also expanded his home, but did not seek variances.

Ms. Hay noted that another added benefit is permitting the bedroom on the first floor allows for the ability to bring an elderly relative into the home in the future.

Mr. Barcan reiterated his opinion the board is being light with the interpretation of public benefit.

Ms. Villaggio noted the request is modest she supports it.

*On a motion by Ms. Villaggio and seconded by Chair Greet, the Board voted Affirmative (5) Stephen Greet, Kathleen Villaggio, Mayor Blumenstock, Councilman Kearney , Stephanie Bianco, Negative (4) William Nierstedt, Richard McCormack, Ken Capobianco, Steve Barcan to grant relief from Section 106-91 which requires a 35 ft. rearyard setback to permit a 30 ft. rearyard for an addition. **MOTION CARRIES 5-4***

As required by ordinance, a court reporter was present.-

ATTACHMENT #1 Transcript of 7/26/2023

Case PB23-01

10 South Avenue (Continuation)

Block 501.01 Lot 8 C/C Zone

Applicant: Garwood Chicken, LLC

Seeking D Variances to permit drive-through window/service and to permit more than one principal structure or use per lot, together with Major Preliminary & Final Site Plan approval with C variances for rear yard setback & signage

Mayor Jen Blumenstock and Councilman Vincent Kearney recused themselves from the case and left the meeting.

Board Attorney Don Fraser noted that a court reporter was present as required for a D Variance. He requested the court reporter correct the transcript from the 4/12/2023 meeting with was prepared from the zoom and audio recordings.

Jason Tuvel, Esq. of Prime & Tuvel continued to represent the applicant. He reviewed the changes made stemming from Board comments at the April 12th meeting. He noted the variances being sought citing the two D variance, one for two principal uses and one for the two proposed Drive-throughs. He noted that there are no requests for bulk variances, however a request for variances for signage. He noted that the lot is oversized and they will be well over the parking requirements. He reviewed the previously testimony regarding operational characteristics such as hours of operations and time of deliveries.

Matthew Bersch, P.E., Dynamic Engineering previously sworn and qualified. He reviewed the changes to the plans. He thanked the Board for their suggestions and stated it made for a better plan. He reviewed the Revised Site Plans July 2023. The Applicant has submitted revised site plans with the following changes:

1. Crosswalk striping details have been updated to be in conformance with construction details.
2. Construction details for trash enclosure striping has been added.
3. Various updates on the utility plan.
4. The location of the fire hydrant has been added to the eastern driveway at the request of the Borough's Fire Official.
5. The site plan has been revised to relocate the sidewalk ramp and landscape island to provide additional truck turning space.
6. The proposed free standing sign detail has been added to the plans.
7. The asphalt area on the east side of the subject property and to the north of the proposed building is to be removed and replaced with a vegetated area with landscaping to be in compliance with NJ DEP regulations. It was noted this is a major improvement of the existing condition of the impervious parking area in the flood hazard zone on the subject property. Due note, a note has been added to this vegetated area that "proposed plantings within restored riparian zone shall be allowed to revert to a natural state and not be maintained as a lawn or landscape area".
8. The number of tables and chairs for the outdoor seating has been added to the plans.

9. Detail for the electric vehicle charging station has been added to the plans.
10. Landscape plans have been revised to address several planning review comments.
11. Stop signs have been added to all proposed stop bars.
12. Applicant provided dimension and SF for Popeye's brand image of a chicken on the west façade.

MARKED INTO EVIDENCE

A-6 Site plan w/Landscape plan superimposed

Questions from the Board

Question from the public: None

RECESS: 9:10-9:15 p.m.

Matthew Flynn, P.P. from the office of John McDonough was sworn and qualified. He described the site and provided planning testimony. He reviewed the variances being sought citing the two D variance, one for two principal uses and one for the two proposed Drive-throughs. He reiterated no C variances are being sought for the bulk, mass or height of the building. He reviewed the required proofs and noted the mass of the property and site suitability. And stated this will fill a substantial void on the property and increases open space.

MARKED INTO EVIDENCE

A-7 Planning Exhibits (6 sheets)

Mr. Flynn reviewed the variances being sought:

§ 106-100 which prohibits a drive-through service.

§ 106-106 – Principal structures/uses -No lot shall contain more than one principal structure or use. There are two principal uses on the property

§106-96.D.4 – The width of Lot 8 is 812 feet where a maximum of 500 feet is permitted.

He noted that this is a preexisting condition.

§106-141.B.4.b – Proposed are five (5) wall signs whereas only one (1) is permitted.

§106-141.B.4.b – The proposed project has a total area for the proposed wall signs of 152 square feet where a maximum of 40 square feet is permitted.

§106-144.D – The proposed directional sign less than 2 square feet is permitted whereas 3.12 square feet is proposed

Questions from the Board

Question from the public: None

Comments from the public: None

Board Deliberations.

Chair Greet thanked the applicant for the very professional presentation and their receptiveness to the Board's suggestions.

Rich McCormack stated he is overwhelmingly in support of the application.

Kathy Villaggio requested clarification on the variances being sought and stated that she is in favor of the application.

William Nierstedt stated that the parking lot is large and he is happy to see another use go there. He noted the reduction of paving and increased open space. He hopes that there will be an agreement between Harbor Consultants regarding stormwater management. Steve Barcan echoed the comments and stated that it was a very professional presentation.

Conditions of approval were discussed:

Work with Harbor Consultants on the species of shade trees, and native species, no planting of arborvitae, shade covering for outdoor area, comply with all the conditions in the most recent Harbor Consultant 25 pg. letter dated July 25, 2023, walkways to be raised and consistent with the testimony potential flexible bollards.

On a motion by Kathleen Villaggio and seconded by Chair Greet, the Board voted Affirmative (7) Stephen Greet, Kathleen Villaggio, Stephanie Bianco Negative Ken Capobianco, William Nierstedt, Richard McCormack, to grant D Variances to permit drive-through window/service and to permit more than one principal structure or use per lot, together with Major Preliminary & Final Site Plan approval with C variances for rear yard setback & signage

NEW BUSINESS

William Nierstedt inquired as to the status of Russo tree grates and the parking status He also inquired as to the status 113-115 Winslow Ave. Mr. Bailer will relay to Mr. Vinegra and the Cranford Building department to be mindful of approving HVAC units in the side yard.

INVITATION TO ADDRESS THE BOARD

No comments

CLAIMS

\$4750.00 to Board Attorney Fraser for legal services for 5 meetings at a rate of \$950.00 each

- *Inv # 03586 from escrow of South Ave. Redevelopment Phase II in the amount of \$2567.50*
- *Inv# 03591 from the escrow of 10 South Ave. / Popeyes in the amount of \$72.50*

ADJOURNMENT - There being no further business, the Board adjourned 9:59 p.m.

The next meeting will be August 23, 2023.

Respectfully Submitted,

Adele C. Lewis, Board Secretary