



Zoning Board of Adjustment

May 20, 2015

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇**OPENING REMARKS** (Commenced at 8:04pm)◇

◇**PLEDGE OF ALLEGIANCE**◇

◇**ATTENDANCE**◇

Present

Joseph Bianco, RA/PP- Chairman
Mitchell Monaco- Vice Chairman
Heena Dhorajia, EIT
Dharamraj Baboo
Kenneth Wasserman
Antranig Ouzoonian, PE- Alternate #1
Mindy Rothbaum- Alternate #3
Phillip Kwon, Esq.- Alternate #4
Daniel Steinhagen, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

Theodore West, DDS- Secretary
Evan Elias
Joan Marks- Alternate #2
Arthur Dolson- Council Liaison
Leonard Sinowitz- Zoning Officer

◇**CORRESPONDENCE**◇

In light of Secretary West's absence and on behalf of Vice Chairman Monaco, Mr. Wasserman read mail received by the Land Use Department into the record.

◇**MINUTES**◇

A motion was made by Vice Chairman Monaco and seconded by Mr. Ouzoonian, to approve the minutes for the April 15, 2015 Meeting. The motion passed (5-0-0):

YES- Rothbaum/Ouzoonian/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Ms. Dhorajia and seconded by Vice Chairman Monaco, to approve the minutes for the April 22, 2015 (Special) Meeting. The motion passed (5-0-0):

YES- Kwon/Wasserman/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇**SUBCOMMITTEE ASSIGNMENTS**◇

May 27, 2015 Work Session: *****CANCELLED*****;

◇**MISCELLANEOUS**◇

A motion was made by Vice Chairman Monaco and seconded by Mr. Ouzoonian, to nominate Mr. Wasserman as Acting Secretary for this evening in lieu of the absent Secretary West; the motion passed by acclamation.

Chairman Bianco confirmed that the Board Attorney was satisfied with the Board increasing the amount in engineering escrow that may be requested by the Subcommittee during Work Sessions with respect to residential applications involving bulk variance requests; he reminded such was adopted by the Board at the April 22, 2015 (Special) Meeting. He reiterated the prior maximum amount was \$300.00, whereas now up to \$600.00 can be required by the Subcommittee in such instances effective immediately.

Chairman Bianco explained that statutorily the Board is not empowered to comment on proposed ordinances like the Planning Board, which is tasked with both determining if a proposal is consistent with the Master Plan and giving recommendations of which the Governing Body must consider. Nonetheless, Mr. Steinhagen said the Board can send correspondence being it is comprised of Borough residents.

Speaking from experience with redevelopment in the City of Newark, Chairman Bianco discussed a proposed amendment to Chapter 200-69E of the Borough Code (Ordinance #2015:1186), which was introduced recently by the Governing Body. He said the proposed wording includes the use of the term "redevelopment", which he believed had been purposely omitted from the Borough's 2008 Master Plan Reexamination, and instead the term "revitalization" was utilized. He stated redevelopment correlates to urban areas in certain municipalities whereby the build-up of properties is the goal; he noted that blight declarations, intensive zoning (such as district overlays), payments in lieu of taxes (PILT), tax abatements, etc., are often involved in redevelopment as well. Chairman Bianco said his professional and personal opinion is that the Borough is not a candidate for redevelopment and, thus, the proposed ordinance should reflect "revitalization" not "redevelopment", so to be consistent with said Reexamination.

Chairman Bianco continued to say that the proposed ordinance permits more than 1 building per lot situated in District #3 (Business) only. He said the Borough's 1981 Land Use Plan spoke of a commercial area, specifically the uses generally clustered in the central portion of the Borough along Ver Valen Street, Closter Dock Road, Harrington Avenue and Homans Avenue. He further stated said Plan speaks of the existing "Closter Plaza" shopping center in the eastern portion of the Borough containing a movie theater, supermarket, department store and a variety of smaller satellite stores and off-street parking. Chairman Bianco stated the Plan also states that said area also consists of a series of individual stores and building groups, mentioning "Heidenberg Plaza". He said the 2008 Master Plan Reexamination discusses revitalization of the downtown area and "Closter Plaza" shopping center, as well as the latter's underutilization, while recommending a strategy be adopted whereby current property owners and perspective developers collaborate to encourage latent market forces resulting in the type of retail center (most likely a community shopping center anchored by a modern supermarket with a group of satellite stores) most suitable for 19 Ver Valen Street. He believed the language of such an

ordinance should be consistent with the 1981 Land Use Plan and 2008 Master Plan Reexamination, both of which are time-honored documents.

Lastly, Chairman Bianco said proposed Ordinance #2015:1186 would allow more than 1 principal use per lot situated in District #3 (Business) only; he suggested such language be revised to include "permitted principal uses" because the current wording is open-ended and unclear. To illustrate that different zoning districts allow different uses, he said a factory should not be located next to a restaurant. Chairman Bianco summated that said ordinance would make several existing nonconforming uses in District #3 (Business) conforming. In response to Mr. Ouzoonian, Chairman Bianco said District #4 (Commercial) is not included in the proposal because said zone permits quasi-industrial uses like woodworking and trucking, which are not desirable in the downtown area.

The Board directed Mr. Steinhagen to draft a memo to the Governing Body outlining the 3 recommendations as spoken of by Chairman Bianco relating to introduced Ordinance #2015:1186. Mr. Steinhagen said he could do so in time for the anticipated memorialization by the Planning Board of its own Resolution to the Mayor and Council.

◇**OPEN TO THE PUBLIC**◇

n/a;

◇**MEMORIALIZATION OF RESOLUTION(S)**◇

A motion was made by Mr. Ouzoonian and seconded by Vice Chairman Monaco, to memorialize the Resolution for Case #Z-2014-24 (181 Herbert Avenue/Ceccon).

The motion passed (5-0-0):

YES- Rothbaum/Ouzoonian/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Vice Chairman Monaco and seconded by Mr. Wasserman, to memorialize the Resolution for Case #Z-2015-02 (20 Brodil Court/Grunstein). The motion passed (4-0-0):

YES- Wasserman/Dhorajia/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇**CASELOAD**◇

<p>Case #Z-2014-17 Closter Assisted Living, LLC 59 West Street, 11 & 15 Van Sciver Street (Block 1104/Lots 15.02, 15.03 &</p>
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Case History

The applicant is seeking a Use Variance and Site Plan Approval for the construction of a new building (containing an assisted living facility) at the subject properties; the application was received October 9, 2014 and scheduled for the November 19, 2014 (Special) Work Session, at which time, it was deemed incomplete; pending the Subcommittee's receipt of requested items, the application was rescheduled for the December 17, 2014 (Special) Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the February 18, 2015 Meeting; the applicant (via 10% owner of 1 of 4 principals forming entity) completed initial testimony and the case was adjourned, with no items required, to the March 25, 2015 (Special) Meeting; the applicant's engineer completed initial testimony and the case was adjourned, with no items required, to the April 22, 2015 (Special) Meeting; due to a pending determination by the New Jersey Department of Environmental Protection relating to wetlands on-site, the application was postponed, pending the Board's receipt of public *re-noticing* requirements, to the May 20, 2015 Meeting.

Representation

1.) Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey;

Witnesses

#1: Brian Wolfe, RA, 13930 North Dale Mabry Highway, Suite 3, Tampa, Florida;

Exhibits

A-3: pre-filed architectural prepared by Witness #1 and dated April 13, 2015;

A-4: colorized/3-dimensional graphic rendering of proposed development depicted at approximately 200' above ground level, prepared by Witness #1 and undated;

A-5: study of proposed building (landscaping/vegetation is not included) during summer solstice and its casting of shadows at 8:00am, 10:00am, 12:00pm and 4:00pm on June 21, 2015, prepared by Witness #1 and undated;

A-6: study of proposed building (landscaping/vegetation is not included) during winter solstice and its casting of shadows at 8:00am, 10:00am, 12:00pm and 4:00pm on December 22, 2015, prepared by Witness #1 and undated;

Relief Sought

1.) Use Variance: assisted living facility is not permitted in District #6;

2.) Use Variance: building height exceeds maximum allowed by $\geq 10'$ and/or 10% (30' maximum allowed/43.20' provided);

3.) Site Plan Approval-

a.) Design Waiver: number of parking spaces (72 spaces minimum required/28 spaces provided);

b.) Design Waiver: parking space area (200 sf minimum required/135 sf provided);

c.) Design Waiver: aisle width (18' minimum required/12' provided);

d.) Design Waiver: front yard parking setback <corner lot- facing Van Sciver Street> (20' minimum required/17' provided);

4.) Bulk Variance: number of stories (2.5 stories maximum allowed/3 stories provided);

5.) Bulk Variance: impervious coverage (50% maximum allowed/68% provided);

6.) Bulk Variance: side yard setback- corner lot (10' minimum required/3.40' provided);

Response to Prior Board and/or Subcommittee Requests

1.) applicant obtained verbal determination from New Jersey Department of Environmental Protection (NJDEP) that wetlands on and surrounding subject properties are considered isolated (written determination is forthcoming);

2.) applicant eliminated proposed basement due to high groundwater table on-site;

3.) applicant provided shadow studies to determine impact of proposed building on surrounding properties;

New Board Requests

1.) confirm proposed building height calculations are based on lower of average existing and proposed grades (measurements should be taken at midpoints of 2 higher ridges on both sides of porte-cochere and minarets/spires which are not excluded from regulation like church steeples, chimneys and flagpoles);

- 2.) provide governmental and/or medical standards and/or guidelines regulating design and administration of assisted living facilities;
- 3.) revise Exhibit #'s A-5 and A-6 to include hourly gradation of shadows casted after 4:00pm as well as property lines and buildings relating to lots located within 200' radius of subject property;
- 4.) provide additional colorized/3-dimensional graphic rendering of proposed development depicted at lower perspective than that of Exhibit #A-4 and including viewpoints from front, both sides and rear of building;

Public Questions

- 1.) John Finan, 55 Mac Arthur Avenue, Closter, New Jersey;
- 2.) Sant Batmaz, 45 West Street, Closter, New Jersey;
- 3.) Robert Ludwig, 73 West Street, Closter, New Jersey;
- 4.) Martin Semar, 342 Brookside Avenue, Cresskill, New Jersey;
- 5.) Bhagvanji Sangani, 69 West Street, Closter, New Jersey;
- 6.) Karine Airapetian, MD, 45 West Street, Closter, New Jersey;
- 7.) Karen Oh, 10 Michaels Lane, Closter, New Jersey;
- 8.) Jesse Rosenblum, 65 Knickerbocker Road, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the June 17, 2015 Meeting.

◇ADJOURNMENT OF MEETING◇

Vice Chairman Monaco inquired about 63 John Street and the vacating of all non-residential activities on-site given all appeals have been exhausted by the property owner (Dennis Wiggers) relating to the Board's denial of Case #Z-2009-14 (63 John Street/Wiggers). The Board determined the absent Mr. Sinowitz should be contacted on the matter.

Mr. Steinhagen said a draft of the Developer's Agreement for Case #Z-2014-19 (309 Closter Dock Road/309 Closter Dock Road, LLC) would be finalized for the Board's consideration in time for the May 27, 2015 (Special) Meeting.

A motion was made by Mr. Wasserman and seconded by Vice Chairman Monaco, to have the Board adjourn at 10:56pm. The motion passed by acclamation.