

MINUTES OF THE REGULAR MEETING OF THE UNION BEACH PLANNING BOARD HELD ON WEDNESDAY, APRIL 26, 2023 IN THE MUNICIPAL BUILDING, 650 POOLE AVENUE, UNION BEACH HELD AT 7 PM.

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The regular meeting was called to order by Chairman Ken Connors who announced that the meeting had been duly advertised in the Asbury Park Press and the Star Ledger in accordance with the New Jersey Open Public Meetings Act, more commonly known as the Sunshine Law.

Roll Call shows the following members were present: Mr. Ken Connors, Mr. Frank Wells, Mr. Llyod Coffey, Ms. Bruna Devino, Ms. Elizabeth Sweeney, Councilman Louis Andreuzz, Councilman Cavallo and Mr. Russell Nalick. Patrick McNamara, Board Attorney, Laurette Wade, Board Secretary, Andrew Denbigh, Board Engineer and Caroline Reiter, Board Planner were also present. Councilman Cavallo is Mayor Cocuzza's representative. Mr. Shannon Hoadley, . Ms. Laura Hallam and Mr. Mike Murray were unable to attend.

The following correspondence was received from Mr. Dayback, the Zoning Officer: B121, L7, 302 Johnson Ave; B124, L5, 407 Orange Ave; B133, L18, 8 Heckelmann St; B40, L5, 934 Seventh St; B29, L13, 15 Dibling St; B90, L3, 107 State St; B189, L1, 602 Columbia Ave; B54, L13.01, 721 Ninth St; B120, L10, 305 Johnson Ave; B40, L27, 337 Prospect Ave; B214, L6.01, 801 Central Ave (2); B53, L6, 722 Seventh St (2); B53, L14, 813 Florence Ave; B242, L8, 1247 Route 36; B21, L6, 518 Front St; B20, L19, 212 Florence Ave; B67, L1&2, 508 Edmunds Ave (2); B80, L2, 1003 Edmunds Ave; B20, L3, 810 Second St; B15, L1.01, 603 Florence Ave; B19, L21, 300 Florence Ave; B19, L16, 817 Fourth St; B124, L5, 407 Orange Ave; B21, L6, 518 Front St; B80, L7, 822 Tenth St; B61, L6, 136 Herbert St; B121, L7, 302 Johnson Ave; B81, L8, 1022 Edmunds Ave; B48, L40.2, 707 Florence Ave (2); B67, L1&2, 508 Edmunds Ave (3); B155, L6.02, 425 Park Ave; B120, L12, 402 Park Ave; B247, L9, 204 State St; B138, L1, 900-902 Union Ave; B69, L4, 202 Henry St; B88, L1, 404 Campbell St; B54, L4, 720 Eighth St; B244, L5.02, 1213 Patterson Ave; B177, L6, 708 Clark Ave; B169, L2, 610 & 612 Aumack Ave; B90, L3, 107 State St; B86, L10, 126 Central Ave; B20, L3, 810 Second St; B180, L1, 701 Beachview Ave; B172, L1, 502 Father Fitzpatrick Way; B194, L13, 561 Sydney Ave; B189, L1, 602 Columbia Ave; B177, L6, 708 Clark St; B223, L12, 811 Prospect Ave; B215, L9, 512 Beachview Ave; B89, L9, 110 State St;

Mr. Wells moved to approve the minutes of the March meeting and Mr. Coffey seconded the motion. Unanimous voice vote of approval.

Applications for the following will be carried to the April 26, 2023 meeting with no new notice required:

Deputy Ventures, Colts Neck applying to for site plan approval to construct 3 buildings with 2 units each on the property located at 300-306 Union Ave, also known as Block 39, Lots 25 & 26.

Dubleski Custom Homes, LLC, Hazlet appearing before the Board for a "Whispering Woods" hearing for minor subdivision with variances at 204 Morningside Ave, Block 139, Lot 19 & 20.

Mr. McNamara explained that there is established case law that when a case involving a planning or zoning board is settled prior to going to trial is known as a "Whispering Woods"

hearing. The reason it is called that is because that is the name of the case that established the ground rules for this process. The applicant was required to give new legal notice and this application has been carried because of circumstances beyond their control, weather delays and other matters of prior hearings and have been carried to this meeting. What we will hear from the applicant's engineer is a brief summary of the changes that have been made since the time of the initial board's action. This is a hearing open to the public but the focus of this is primarily on the changes that have been made to the initial plan. It is not a hearing from scratch all over again with multiple witnesses. That is not what is required. It was the determination of the board that the better recourse in this particular instance was to resolve the matter amicable and by settlement. The board has done this before

Ms. Caroline Reiter, Mr. Andrew Denbigh and Mr. Robert Kee were sworn in by Mr. McNamara. Arthur Owens is the attorney for the applicant.

Mr. Kee testified to the changes of the project. The basic layout of the subdivision has not changed. We had conversations with borough engineer. The new driveway will be where the existing crosswalk is. We came up with a plan to relocate the school crosswalk closer to Wilson Ave. Drawings have been updated to show relocation of walkway. New ADA corners to be installed. One driveway will be on Wilson, the other on Morningside. Existing utility pole to be relocated on Morningside Ave. All costs of the changes will be borne by the applicant.

Mr. Denbigh asked that the existing ADA ramp located on the corner of Wilson will remain. Mr. Kee stated yes. Mr. Denbigh also asked about utility connections and repaving of that portion of the street. Mr. Kee stated that whatever the municipality required. Mr. Denbigh stated that his recommendation would be to repave that section in front of the property.

Mr. Wells asked about the pre-trial litigation. Mr. McNamara stated that we had gotten thru pre-trial conference, the court strongly urged the parties to resolve this, the judge has many years experience in municipal and land use work. After that we entered into negotiations for about 6 months. And we presented the settlement agreement that you reviewed and voted on in February. There's a settlement and consent that will be submitted to Judge Higgins for final sign off. It will then be dismissed with prejudice and that will be the end of the lawsuit.

Mr. Wells asked about lot sizes. Mr. Kee stated corner lot is 100'x75' (along Morningside), interior lot 100'x65' width.

Mr. Denbigh stated that the houses would need to be finished floor elevation of 21' to meet flood elevation requirements.

Mr. Connors asked if there was anyone from the public that wished to speak.

Ms. Elizabeth Nigro, 44 Scholer Dr asked about the placement of the one garage and if the crosswalk would be diagonally across the street. Mr. Kee responded that the garage would be attached to the house and that the crosswalk would be straight across, not diagonally. Ms.

Nigro expressed concern about traffic flow at the school, and that the public noticed she received stated that the plans may change. Mr. McNamara explained that is standard language and that means that the plans can change a little to meet the planning board requirements. Ms. Nigro expressed her displeasure at this being approved. Why is this good now and wasn't 14 months ago. Mr. McNamara explained again that it was taken to court and a settlement agreement was reached.

Mr. Eric Ochs, 220 Morningside Ave, asked about the overall height of the houses and Mr. Kee responded that is not his expertise. He also asked if any safety agencies were consulted about the crosswalk relocation. Mr. Kee stated that they worked with the borough engineer on all the changes.

Mr. Stephen Prestia, 202 Wilson Ave, asked about the borough height restrictions, double or single driveways. He also voiced concerns that it is a very busy corner. He was informed that we have a maximum height of 35' to the collar ties, 20' wide driveways. Mr. Prestia voiced concerns over the safety for the kids, that it is a very busy corner. Mr. Prestia asked what is the standard lot size. Mr. Denbigh stated 100'x100'. This lot will be 75'x100.

Mr. Andrew Ropel, 43 Scholer Dr questioned the subdivision being approved without the public input. Mr. McNamara informed him that the subdivision is part of the settlement agreement. He questioned if any board members have been at the school in the mornings during school days. Several members stated that yes they have. Mr. Ropel voiced his concern that 2 houses on that lot is not right. He asked for the board to reconsider.

Mr. Stephen Wilson, 44 Scholer Dr voiced his concerned over this being approved.

Mr. Wells stated that this is a non-conforming lot already. Ms. Reiter stated that the lot is 100'x140' which is conforming. Mr. Kee stated that the new corner lot will be 75'x100 and the interior lot will be 65'x100'.

Mr. Connors asked if there was anyone else in the audience that had comments. No one responded.

Mr. Connors asked for a motion. Mr. McNamara requested that we go into closed session. Ms. Devino moved at 8:20 and Councilman Andreuzzi seconded. Mr. McNamara stated that the purpose of the closed session is to discuss ongoing litigation on this matter before the board and action will be taken after closed session. Councilman Andreuzzi made a motion to go back on record at 8:47pm and Mr. Coffey seconded. Voting yes: Connors, Wells, Coffey, Devino, Sweeney, Andreuzzi, Cavallo, Nalick

Mr. Connors asked for a motion to approved the amended application as part of the settlement agreement. Mr. Coffey made a motion to approve, Ms. Devino seconded. Voting yes: Connors, Coffey, Devino, Andreuzzi, Cavallo. Voting no: Wells Abstain: Sweeney, Nalick

Mackus LLC, 18 Tall Woods Drive, Manalapan, NJ applying for a certificate of prior non-conformance for the property located at 531-533 Morningside Ave, also known as Block 193, Lot 13.

Mr. Denbigh, Ms. Reiter and Mr. Jeremiah McNamara (applicant) were sworn in. Councilmen Andreuzzi and Cavallo recuse themselves.

Mr. McNamara stated that a certificate of non-conformity under section 68 of the Land Use Law. The board acts as a zoning board for this type of application.

Mr. Edward Liston, Jr. Toms River, NJ, attorney for the applicant. He stated the property was built upon prior to the building ordinances went into effect. The house was built in the late 1940s and the garage building and the apartment above it was built in 1956. Our witness is Ms. Freiburg who's father built the apartment and that was her first home.

Exhibit A1 – Chain of Title

Exhibit A2 – Certification of Dana Freiburg with attachments

Exhibit A3 – Appraisal

Exhibit A4 – Elevation Certificate

Dana Freiburg, 537 Morningside Ave was sworn in. Ms. Freiburg stated that her father built the apartment on top of the garage. That was her first home for about 1 1/2 years. 533 Morningside is the apartment, 531 is the house. Next to it is 537 Morningside, where she lives now. Grandparents lived in the house at 531, the apartment was always rented. The only time the apartment wasn't occupied is when a gentlemen left it took a few months to renovate the apartment to get the smoke smell out.

Mr. Liston reviewed Exhibit A1.

Mr. Liston asked Ms. Freiburg if when Mackus purchased the property was both residences occupied. Ms. Freiburg stated yes. Mr. Liston stated that the property has always been taxed as 2 family. COs have been issued for both residences.

Mr. McNamara asked if there are smoke and CO detectors. Mr. J. McNamara stated yes. Mr. McNamara asked if he would be willing to replace the wood stairs with metal ones. Mr. Liston stated yes as long as it doesn't require a variance. That the board makes it clear that updating the stairs is a safety issue and not an expansion of the non conformance use.

Ms. Sweeney stated that the current tax record shows it as a 1-1/2 story cape cod and the property card does show there's a garage with a finished second floor. It is not being taxed as an apartment.

Ms. Reiter asked how many rooms the apartment is. Mr. J. McNamara responded 2 bedroom, 1 bath, kitchen and exterior stair. Ms. Reiter asked if it was always 2 bedrooms. Ms. Freiburg

stated that when she lived there as an adult, she used one room as the bedroom and one as a living room. Ms. Reiter asked how many rooms in the house. Mr. J. McNamara stated 2 bedroom, 1 bath, kitchen, living room, closed porch, laundry room.

Mr. Denbigh how the apartment is heated. Mr. J. McNamara stated the heating and water heater are located in the garage below. Mr. Denbigh asked if there is separate utility meters, separate mailboxes. Mr. J. McNamara stated yes separate address – 531 and 533 Morningside.

Mr. Liston summarized the application and asked for an approval.

Mr. Wells made a motion to approve, Ms. Devino seconded. Voting yes: Connors, Wells, Coffey, Devino, Sweeney, Nalick

Resolution approving the application of 60 Creek Road LLC, 1009 Harris Ave, Union Beach for a certificate of prior non-conformance for the property located at 354 Lorillard Ave/401 Spruce Street, also known as Block 149, Lot 16. The subject property is a non-conforming corner lot. It is located in the R8 Residential Zone and consists of two (2) single family residences.

Mr. Wells moved to approve, Ms. Devino seconded. Voting yes: Wells, Coffey, Devino

Mr. Wells moved to go to closed session, Councilman Andreuzzi seconded at 9:45 pm.

Mr. Wells made a motion and Mr. Coffey seconded to come out of closed session at 9:48 pm.

There being no further business Ms. Devino moved to close the meeting at 9:49 pm and Mr. Nalick seconded the motion.

Respectfully submitted,

Laurette Wade