



Borough of Woodbury Heights Planning/Zoning Board
500 Elm Avenue Woodbury Heights, New Jersey 08097

December 6th Regular Meeting Minutes

The meeting was called to order by Chairman Phalines at 7:04 pm. He announced that the meeting was duly advertised and conforms to the directives of the 'Open Public Meetings Act' of New Jersey. He then asked for all to rise and pledge allegiance to the flag.

Roll Call found the following; Mr. Packer, Mayor Elton, Mr. Lunn, Councilman Scull, Mr. Baresich, Mr. Holmstrom, Mr. Hart and Chairman Phalines present. Absent was Mr. Deeck, Mr. Smith, Mr. Martino, Mr. Flynn and Mr. Conley excused himself as he is representing the applicant. Also in attendance were Mr. Gerald Sinclair, Board Solicitor, Ms. Tiffany CuvIELLO, Board Planner and Mr. Mark Brunermer, Board Engineer.

Chairman Phalines asked for a motion to accept the minutes of the November 1st meeting and the secretary stated that she found an error and noted that on page 2 after 'Aye' the words 'to close the public portion' need to be added. A motion was then made by Mr. Packer and seconded by Mr. Holmstrom to accept the minutes as corrected. The motion passed on the following vote; Mr. Lunn, yes, Councilman Scull, abstain, Mr. Packer, yes, Mayor Elton, abstain, Mr. Baresich, yes, Mr. Holmstrom, yes, Mr. Hart, yes and Chairman Phalines, abstain.

Chairman Phalines called on Mr. Sinclair for a solicitor's report and Mr. Sinclair stated that there was nothing this evening.

Chairman Phalines stated that we had an application before us for James and Michael Plum use variance and site plan waiver and would they please step forward. Mr. John Carr, Esquire, attorney for the applicant stepped forward. He stated they are here for a site plan waiver and use variance basically for an interior change. He felt the most efficient way to proceed would be to have them sworn in and proceed using the review letters of the Board's planner and engineer.

Mr. Sinclair asked those that would be testifying to step forward and he then swore in; Robbie Conley, architect, 596 Glassboro Rd, James and Michael Plum of 576 Glassboro Rd. Mr. Sinclair noted for the record that Mr. Carr has provided adequate notice of this hearing for the application and variance and because it is a use variance, the Mayor and Councilman Scull must excuse themselves. Mr. Sinclair noted that we would be down to 6 voting members instead of 7 and asked Mr. Carr if he was willing to proceed and Mr. Carr stated absolutely.

Mr. Carr stated that they would start with Mr. Conley. Mr. Conley stated that the building currently has two businesses in the front and a four bedroom apartment in the rear and second floor. What we are proposing is to change it into two one bedroom apartments. The first floor would consist of a kitchen, living room, bedroom, bathroom and foyer; the second floor would consist of a living room, kitchen, bathroom, one bedroom and den. He mentioned the den will not have a closet in it and we can discuss that later. The third floor is a walk up attic that will be used for storage. He noted that they would like to do is move the steps (on the parking side) to achieve an additional parking space and would be in encroaching on the set back of the side yard. He stated that basically they are looking for 4 (four) uses rather than the 3 (three) that are currently there. Mr. Conley stated that they are in agreement with everything in Mr. Brunermer's review letter and asked if the Chairman wanted to go through each one. Chairman Phalines stated that he would and wanted to start with Ms. CuvIELLO's review letter and ask Mark to follow.

Ms. CuvIELLO states that she has a letter dated November 19th for the Board and indicates that the apartment with the den could possibly be used as a bedroom which doesn't change the parking requirements necessarily; she is noting it for the record. Since this is a use variance they must provide both the negative and positive criteria. Mr. Conley mentioned the setback issue with the stairs and some other things she would like them to put on the record as part of their testimony for the Board's deliberations; some of them we heard conceptually when they were previously before the Board; that being the nature of the businesses, the hours of operation, the number of employees etc and how they relate to the tenants and as she recalled they would be owner occupied and that would help with the parking

requirements. Mr. Carr stipulates that the apartments will be owner occupied. She noted that the parking encroaches on Rose Avenue and that is already an existing condition. She noted that she visited the site prior to the meeting and noted that the cars are basically parking right against the building and it might behoove the owners to add bumper stops or wheel stops should the Board be inclined to approve the application. She also noted that there were vehicles parked at the end of Rose Avenue and perhaps the Board may want to look into the possibility of a guard rail being installed as it appears to drop off considerably. Mr. Conley stated that in regards to #9 of Ms. CuvIELLO's letter; there could be no parking behind the building due to the fact that there is a drop off that is steep. Mr. Conley added that they don't have a problem putting in stops along the building. He noted that the parking has always been an issue with this property and feels that since they are coming in with owner occupied; it will alleviate some of the problem. He clarified that they are going from 4 bedrooms to 2 bedrooms even if we consider the den as a bedroom we are still cutting down. As for the commercial businesses, they have been there forever. There have retails stores and office space in the past. The businesses the Plum Brothers are having are a locksmith shop and knife sharpening business. The locksmith and knife sharpening businesses won't generate parking for any length of time as they are basically; drop off and pick up. He stated that he would start with the locksmith business first and then to the knife sharpening business and the brothers could state the nature in reference to employees and so forth. James Plum stated that basically a lot of his business is off premise, he makes keys, he has no employees, and his brother Michael helps him occasionally. Mr. Sinclair asked him if his hours of operation were normal retail and he stated yes. Michael Plum stated that as of yet he hasn't graduated his class to obtain his degree for sharpening. His hours would be the same and he would not have any employees. If he would do anything else, it would be woodworking making wishing wells etc. Mr. Conley stated that the commercial/residential use has been there for years and feels that this plan does not interfere with the intent of the master plan. Chairman Phalines stated that there are proposed renovations to the interior; are there any plans for the exterior? Mr. Conley stated that the only change to the exterior is to put to stairs from the existing lower deck to the upstairs and add an entrance for the second apartment.

Chairman Phalines then called on Mr. Brunermer, the Board engineer, to proceed. He asked for clarification on the parking arrangements in relation to the pet groomers as this has been an issue in years past. Mr. Conley stated he has a verbal agreement with them that they can use his parking lot as long as they keep it clean. Chairman Phalines asked about the employees of the groomer in reference to parking. Mr. Conley stated that as far as he knows they have 1 or 2 employees and they park on the other side and they may be the ones parked at the end of Rose Avenue. Ms. CuvIELLO interjected that the only legal place the groomers have to park is at the end of Rose Avenue and not against the Plum property. Mr. Carr stipulated that they are allotting one space for the groomer as it currently exists. Mr. Sinclair noted that there was a sign there and Mr. Conley stated it is still there and it basically says "this spot reserved for K-9 Kingdom". Mr. Carr stated he vacated the spot when he was coming to the meeting and can affirm the sign is still there. Mr. Brunermer went on to state about parking as you enter the lot in reference to handicap parking. Mr. Conley stated that they intend to use the first spot as a handicap space and there was a question in regards to a ramp. He states that the sidewalk was in disrepair and the Plum brothers did make the repair and made sure it was flush with the sidewalk. Mr. Brunermer asks that when they stripe the spot to use the "Long Life Epoxy" in accordance with NJDOT standards. He states they would like to see a zoning table on the plan to document the variances and parking designated, so in addition to the resolution should the application be approved, it would be clear to the zoning official. He noted for the record that the rear yard fence encroaches off the property. Mr. Conley stated that should it become a problem the Plum brothers will take care of it. In regards to a performance bond, Mr. Conley asked for a waiver on that and Chairman Phalines had no problem with it.

Chairman Phalines then addressed Mr. Carr stating that he and Mr. Sinclair get on the record for the positive and negative criteria. Mr. Carr stated that the controlled mix of residential and commercial properties is well suited with this application as it will be owner occupied in both respects. He maintains that it also helps with any parking issues. The positive criteria are well proved and he has no negative criteria. It is a win-win situation for the Borough. He deferred to Mr. Sinclair; however Ms. CuvIELLO would like to

elaborate. She states that in her review letter she stated this was a D1 variance when in effect it is a D2 variance; an expansion of a non-conforming use. Really what the Board needs to concentrate on are the impacts this change of the additional apartment will have in respect to the parking issues and one of the ways to help that is with the condition that it remains owner occupied. The testimony tonight reflects that this condition will be met. Mr. Sinclair states he is satisfied with the testimony this evening.

Chairman Phalines asked for a motion to open the meeting to the public. A motion was made by Mr. Packer, seconded by Mr. Holmstrom and signified by 'Aye' that the meeting be opened to the public. Chairman Phalines addressed the audience if they wanted to comment on this application. That they stand, give their name and address the Board. There being no comments; he entertained a motion to close the public portion of the meeting. The motion was moved by Mr. Packer, seconded by Mr. Holmstrom and signified by 'Aye' to close the public portion.

Chairman Phalines asked for comments from the Board. Mr. Holmstrom stated that perhaps once they move in they could 'spruce up' the outside as this is something they would ask of any applicant that has come before the Board. Chairman Phalines states that with doing this, those passing the property would notice the new businesses and may prompt them to utilize them. He states that he has no problems with this application at all. There being no other comments from the Board he entertained a motion be made to approve the application. Mr. Sinclair stated that basically the motion would be to grant the variance to allow the additional apartment and continued use of businesses; noting also Mr. Brunermer's comments; waiver of site plan; and conditional use of owner occupied stipulated. The motion was made by Mr. Packer, seconded by Mr. Holmstrom. Roll call vote was as follows; Mr. Lunn, yes, Mr. Packer, yes, Mr. Holmstrom, yes, Mr. Baresich, yes, Mr. Hart, yes and Chairman Phalines, yes. Chairman Phalines thanked Mr. Carr and the applicants.

Chairman Phalines called on Mr. Lunn for other business. Mr. Lunn again brought up the car lot on Route 45. Anne Deeck, secretary interrupted Mr. Lunn to state that she has contacted the zoning official, Mr. Leech, on both

prior complaints from Mr. Lunn. Mr. Sinclair stated he also heard the same thing from Mr. Leech. Mr. Lunn continued that he has installed bollards along Route 45 and there is no space for people to walk between the bollards and the curb. He feels it is dangerous as people need to walk in the street. Mr. Conley stated that he will look at it, but feels it is better than it was before as cars used to be parked right up to the curbing. He feels that there is no issue with it. Chairman Phalines states that the issue is of no consequence to the Board until the zoning official brings it before the Board. There is nothing the Board can do. Mr. Sinclair stated that this would be an enforcement issue and this Board does not have jurisdiction on enforcement. Mr. Lunn states that the zoning official should be made aware of it. Anne Deeck, secretary, stated that Mr. Leech is aware of the situation as she notified him when she noticed the bollards going in. Mr. Leech did check it out and stated there was not a problem. She told Mr. Lunn that to ease his mind, she would ask him again to check it out.

Mr. Sinclair asked if we still had an ordinance sub committee and Chairman Phalines stated yes. Mr. Sinclair stated that it seems to be popular for back up generators on properties and should perhaps institute some compliance in regards to their use. He feels more people are going to be using them as the cost has come down on them. Chairman Phalines wanted clarification as to what Mr. Sinclair was looking for in the ordinance. Mr. Sinclair stated that he feels we need something in regards to location on the property, times of use etc. Mr. Holmstrom stated he also stated that perhaps we should look into solar panels as he read an article about the reflections causing problems. Chairman Phalines reiterated the members of the sub committee being; Mr. Conley, Mr. Holmstrom, Mr. Baresich and himself. Chairman Phalines states that he feels they should meet after the first of the year. Mr. Sinclair would like the committee to look into something in regards to zoning for churches; local community versus mega churches. Mainly the parking space issues that come into play. Mr. Conley brought up that he has gotten calls and has seen emails in regards to the 'restaurant' that has opened on Maple Avenue in the Giant Fitness. He feels that the Board didn't approve anything more than a juice bar. He further stated that residents on Maple were complaining of people parking in the street and he spoke to our police chief and no summonses have been issued. (He notes that Anne has her hand up) Anne Deeck, secretary, stated she found

the ordinance passed by Mayor and Council on the advice of the Board to make the north side of Maple 'no parking'. She noted that the Borough failed to inform the Police Chief so signs could be posted. She has informed Chief Lindsay and the problem will be taken care of. Mr. Brunermer noted that the signs are already up and the curb line has been painted yellow. Mr. Conley states that most of the parking is on the other side and that some of his employees have gone there to eat and stated they had to park in the other businesses. Mr. Conley states he hates to cause any problems for a business that is doing well and bringing more people into our town, but the parking was an issue when the applicant was before the Board. Anne noted that every time she has gone by the lot it is loaded in the front but the back parking lot is empty. She feels the people don't want to make the walk. Mr. Conley asked if there wasn't supposed to be a rear entrance and Ms. CuvIELLO stated that was part of the Phase II which was withdrawn from the application. Mr. Brunermer states that he feels Mr. Balducci is doing well and perhaps will have to come before the Board to address more parking in the rear. Mr. Conley also noted that two spaces in the front are marked 'Muscle Maker Grill Delivery Vehicles Only'. Mr. Conley stated that he has spoken to the fire official several times that one specific car parks in the fire lane. Ms. CuvIELLO notes that the juice bar would be used by the members; the restaurant makes it a different use in reference to requiring additional parking. Ms. CuvIELLO states that he (Mr. Balducci) has the space, he just hasn't developed it. Mr. Conley stated that he thought our Zoning Ordinance was designed that any new occupant, not just change of use, was to appear before the Board. Anne Deek, secretary, stated that she asked Mr. Leech, zoning official about that in regards to Moose Juice, who took over the space previously occupied by 'Curves'. Mr. Leech stated it is not necessary for them to come before the Board. Mr. Conley stated that he disagrees with Mr. Leech's interpretation of our ordinance and Chairman Phalines concurred. Chairman Phalines feels that the zoning official should be obligated to read the ordinance thoroughly before making any decision and also the resolution passed by the Board. Mr. Sinclair feels he apparently didn't read the resolution; Ms. CuvIELLO states that the problem with the resolution is it limited Mr. Balducci to Phase I which eliminated the extra parking variance required in Phase II. Ms. CuvIELLO states that she can almost see the train of thinking on the part of Mr. Leech. Chairman Phalines wants to know where we stand, and Mr. Sinclair

states it is an enforcement issue and the Borough Solicitor must contact Mr. Leech and move forward. Ms. CuvIELLO quotes section 44 B; "no construction permit, sub-code permit or certificate of occupancy shall be issued for any land development, construction, use or occupancy of any nonresidential premises nor shall any change in use or occupancy of such premises be permitted until approval of a site plan by the Planning Board and compliance by an applicant". Mr. Sinclair states that he will follow up as emails were sent between himself and Mr. Lozuke, the Borough Solicitor on this matter. Mr. Lunn states that when he was in there you could not really tell where the gym started and the restaurant began. There are no walls or enclosures around the restaurant. Mr. Sinclair agreed that that is correct.

Chairman Phalines asked if there is any other business. Anne stated that she wanted to inform the Board that the reorganization meeting is scheduled for January 17th as Mayor and Council are using the first Monday for their reorganization meeting. Our regular January meeting will immediately follow reorganization.

There being nothing further; a motion was made by Mr. Packer, seconded by Mr. Holmstrom and signified by 'Aye' to adjourn at 8:09 pm.

Submitted by,

Anne L Deeck, Secretary

Anne L Deeck