ZONING BOARD OF ADJUSTMENT

REGULAR MEETING MINUTES

SEPTEMBER 21, 2015

A REGULAR MEETING of the Zoning Board of Adjustment was held on Monday, September 21, 2015, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:11 p.m. and Secretary Egan called the roll. Present at the meeting were Chairman Urban and Commissioners, Adams, Egan, LeFante, Rivera, Lombari and Pellitteri. Commissioners Ferrante and Weicker were absent.

Also present were Robert Russo, P.E., Consulting City Engineer, Anthony Rodriguez, P.P., Consulting City Planner, Richard N. Campisano, Esq., Board Counsel and Lillian Glazewski, Land Use Administrator.

After the Pledge of Allegiance to the Flag, Chairman Urban declared a quorum and advised that the Board had complied with the Open Public Meetings Act/Sunshine Law.

Adoption of Minutes:

Chairman Urban called for the adoption of the minutes from the regular meetings held on July 20, 2015 and August 17, 2015.

Commissioner Adams made a motion to adopt the minutes and Commissioner Lombari seconded the motion. A unanimous vote of eligible members followed.

Communications:

- Letter from Marc D. Policastro, Esq., attorney for application **(Z-15-004) NJD DEVELOPMENT, LLC/Raceway Petroleum, Inc.** requesting an adjournment of this matter to our next meeting scheduled for October 19, 2015.
  - Commissioner Adams made a motion to grant the adjournment with the condition that the applicant moves forward on October 19, 2015, or the matter will be

dismissed. Commissioner Egan seconded the motion and a unanimous vote followed. No further notice is required.

- Letter from William J. Finnerty, Esq., attorney for application **(Z-15-008 KARIM SAWERIS,** requesting an adjournment of this matter to October 19, 2015. The applicant was unable to obtain the Affidavit of Publication from the Jersey Journal.
  - Commissioner Egan made a motion to grant the adjournment to October 19, 2015. Commissioner Lombari seconded the motion and a unanimous vote followed. No further notice is required.

Public Hearing:

Z-15-015 – 998-1000 BROADWAY BAYONNE, LLC – Site: 998-1000 Broadway in City Block 66, Lot 50 – *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the third floor apartment to be divided into two apartments.]*

Richard Meola, Esq., attorney for applicant offered his exhibits into evidence and called his first witness.

Witness:

Suzanne Huguley, agent for the property located at 998-100 Broadway was sworn to provide factual testimony regarding same. Ms. Huguley stated that the property contains ten (10) residential units and two (2) ground floor commercial units. The proposed additional unit would not require any major renovation because the plumbing and utility connections are available for the unit. It was her belief that there were two (2) units modified into a single unit and the proposed change is to return to the original configuration of two (2) units.

Board questions:

Commissioners Adams and Egan questioned Ms. Huguley.

Audience questions:

There were no questions from the general public.

Witness:

Al Sambade, P.P., A.I.A. was sworn to provide expert testimony on behalf of the application. Mr. Sambade was recognized as an expert in architecture as well as planning. Mr. Sambade described the site plan submitted as part of the application that was prepared by his firm. He described the proposed changes and the relief needed for usable open space and parking. He said that the applicant agrees to comply with the City's professional's requests as outlined in their reports. In addition, he described the new units and testified that the proposed use would not create a visual nuisance, functional nuisance or impair the character of the structure. He stated further that the size of the existing unit was undesirable in this commercial district, and that at one time this unit was two (2) units. Mr. Sambade said that the site was particularly suited for the proposed use as evidenced by the fact that the use today is identical to the requested relief and the only difference will be the configuration of the units and the commercial/residential mix. Mr. Sambade also discussed the negative criteria and noted that the applied for relief does not result in any detriments to the public health and safety because of the nominal impact on the Zone Plan and Zoning Ordinance. It was his opinion that the location of the property and the nature of the improvements are consistent with the local zoning scheme (residential/commercial in character) and melds with the adjoining commercial and residential neighborhood. The parking and usable open space deficiencies are existing conditions that are not increased by virtue of the application. Mr. Sambade pointed out that there is a variety of mass transit available to residents of the building including light rail and busses. He also said that there are a great many recreational facilities in the City. It was his opinion that these services mitigated the negative effects of the variances. He indicated that the effect would be subtle and unnoticeable to the citizens and as such did not become a substantial detriment.

Board questions:

Commissioners Lombari and Egan questioned Mr. Sambade as did City Planner, Anthony Rodriguez.

Audience questions:

There were no questions from the general public.

Closing remarks:

Mr. Meola gave no closing statement. He said that he would rely on the testimony given by his expert.

Caucus:

Chairman Urban commented that he is satisfied that all criteria have been met to approve the requested variances.

Commissioner Adams commented that the applicant adequately addressed the positive and negative criteria to grant the relief requested.

Commissioners Rivera, Pellitteri, Lombari, LeFante and Egan concurred.

Commissioner Adams made a motion to approve the application subject to the conditions spread across the record. Commissioner LeFante seconded the motion and a unanimous vote followed.

Public Hearing:

Z-15-014 DELTA SELF-STORAGE, LLC – Site: 69-71 New Hook Road in City Block 416, Lot 1. *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to convert 13,399 square feet of existing office space to self-storage units.]*

Charles J. Harrington, Esq., attorney for applicant, talked about the history of the existing building and discussed the reason for this application. Mr. Harrington said that the Board approved the present use in 1998. Then in 1999 the applicant returned to the Board for an expansion of the use and said application was also approved. Mr. Harrington pointed out further that the applicant is not seeking to make a significant change to the underlying use of the building and the requested relief is consistent with the Board's decision of August 16, 1999. He said that if this application is granted the proposed use will be consistent with the rest of the property and as such does not negatively impact the underlying use.

Witness:

Matthew R. Welch, P.E., from Stonefield Engineering, is the project manager for this project. Mr. Welch was sworn and recognized as an expert witness to provide testimony in support of this application. *Exhibit A-25, an aerial of the site, was marked into evidence*. Mr. Welch talked about the vehicular use of the area. He described the lighting at the site and the building. Mr. Welch testified that he reviewed the site improvements. He said that the handicapped parking spaces will be upgraded. He further testified that the application meets the bulk criteria in the H-C Zone except for the impervious surface.

Board questions:

There were no questions from the Board or the Board professionals.

Audience questions:

There were no questions from the general public.

Witness:

Vincent DiDomenico, Jr., a managing member of applicant, said that the Delta Self-Storage business has been operating on this site since 1998 with approximately five (5) employees. He said that the hours of operation are from 7:30 a.m. to 7:30 p.m. Monday thru Friday, 9:00 a.m. to 5 p.m. on Saturday and 10:00 a.m. to 4:00 p.m. on Sunday. He further testified that no hazardous materials are allowed to be stored at the site and the staff is trained to watch out for such things since the business has been in operation. Mr. DiDomenico said that his family has owned this property since 1960's. Mr. DiDomenico described the existing street trees and he requested that the Board waive the requirement for the applicant to make a donation to the street tree fund for additional trees.

Board questions:

Chairman Urban questioned Mr. DiDomenico.

Audience questions:

There were no questions from the general public.

Witness:

Kevin P. Spink, A.I.A., gave his educational background and experience for acceptance as an expert witness. Chairman Urban recognized Mr. Spink as an expert witness. *Exhibit A-26, a color rendering of the site, was marked into evidence*. Mr. Spink described the interior changes to the building and the redesigned façade. He further described the proposed signage as well as the surrounding area. Mr. Spink advised there would be no expansion to the footprint of the building and that one hundred thirty (130) additional storage units would be added to the existing 13,339 square feet.

Board questions:

Commissioner Pellitteri questioned Mr. Spink.

Witness:

Eileen Banyra, P.P. was sworn as an expert witness to testify on behalf of the application. Ms. Banyra testified as to the intensity of the proposed expansion of the use comparing this to the present uses in the area. She said that the site was particularly suited for this use in that it is identical to the existing self-storage use and the only difference will be the configuration of additional units. Ms. Banyra testified that the proposed use is a de minimis change in this Highway Commercial District. She discussed the façade changes and signage as well as the variances requested. Ms. Banyra opined that the promotion of the general welfare was accepted as a special reason for the satisfaction of positive criteria to justify the purpose of Zoning. With regard to the negative criteria, Ms. Banyra noted that the applied for relief does not result in any detriments to the public health and safety because of the nominal impact on the Zone Plan and Zoning Ordinance. The deficiencies are existing conditions that are not increased by virtue of the application. She indicated that the effect would be subtle and imperceptible to the citizens and as such did not become a substantial detriment.

Board questions:

Chairman Urban questioned Ms. Banyra

Audience questions:

There were no questions from the general public.

Closing remarks:

Mr. Harrington said that he would defer to the record.

Audience remarks:

There were no closing remarks from the audience.

Caucus:

Chairman Urban said that the proposed use is consistent with existing use and he sees no detriment to Zone Plan or Zoning Ordinance.

Commissioenr Adams said that the applicant made its case and deserves the relief requested.

Commissioners Rivera, Pellitterri, Lombari and LeFante concurred.

Commissioner Egan also concurred with his fellow commissioners, however, he feels the required donation for street trees should not be waived and the applicant should be required to satisfy that condition.

Commissioner Adams made the motion to approve subject to the conditions spread across the record including the street tree requirement. Commissioner Lomari seconded the motion and a unanimous vote followed.

Adoption of Resolutions:

- **Z-15-016 ESTATE OF PASQUALE DeSIMONE – Site: 21 East 51st Street in City Block 46, Lot 8.**
  - Commissioner Adams made a motion to adopt the resolution and Commissioner LeFante seconded the motion. A unanimous vote followed.
- **Z-15-012 – 10 MECHANIC STREET, LLC – Site: 10 Mechanic Street in City Block 449, Lot 20.**
  - Commissioner Adams made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote followed.
- **Z-15-013 – 22 EAST 33RD STREET, LLC – Site: 22 East 33rd Street in City Block 146, Lot 20**
  - Commissioner Adams made a motion to adopt the resolution and Commissioner LeFante seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 7:20 p.m.

Susan Bischoff, Certified Shorthand Reporter, took a transcript of the meeting.

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