

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
MARCH 21, 2016

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, March 21, 2016, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:12 p.m. and Secretary Egan called the roll. Present at the meeting were Chairman Urban and Commissioners Adams, Egan, Ferrante, LeFante, Weicker, Lombardi and Dorans. Commissioners Pellitteri, Rivera and Kushnir were absent.

Also present were Robert Russo, PE, consulting City Engineer, 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 meeting held on February 22, 2016.

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

Communications:

A letter from Christopher D. Vatale, Esq., O'Halloran & Vitale, Esqs., attorney for application Z-15-021 Excel AP, LLC requesting an adjournment to allow the applicant's architect time to make additional revisions to the plans to conform with the comments of the

commissioners. Mr. Vitale requested the matter be adjourned to our next regular meeting scheduled for April 18, 2016.

Commissioner Ferrante made a motion to adjourn the continuation of this application to April 18, 2016 with the applicant not being required to send out further notice. Commissioner LeFante seconded the motion and a unanimous vote followed.

Public Hearing:

Z-16-003 QUICK CHEK CORPORATION, Site: 21-23 East 52nd Street in City Block 41, Lots 7 and 13.01 *[The applicant is seeking preliminary and final major site plan approval as well as use and bulk variance relief to allow the construction of two additional driveways, parking and landscaping.]*

Craig Gianetti, Esq., attorney for the applicant, gave a brief opening statement, offered his exhibits into evidence and called his first witness.

Witness:

Bob Vallario, real estate manager for Quick Chek was sworn to provide factual testimony in support of the application. Mr. Vallario explained why Quick Chek is filing this application for the driveways. He said that the applicant feels the driveways will improve the circulation on the site.

Board questions:

There were no questions from the Board.

Audience questions:

Resident Joe Villarosa questioned Mr. Vallario regarding the negative impact the driveways would have on the residents who live on East 52nd Street.

Witness:

Charles Olivo, PE., a traffic engineer was sworn and recognized as an expert witness. Mr. Olivo provided an aerial exhibit and described the area as it was before and how it is now. He said that the proposed driveways will help the traffic flow in the area. Mr. Olivo also testified as to the pedestrian/vehicular traffic circulation. He spoke about the proposed Turnpike 14A interchange improvements and the effect that will have on the abutting streets. Mr. Olivo testified that the primary access to the site will be on East 53rd Street. He opined that his expectation is that the traffic flow to East 52nd Street will be low.

Board:

Chairman Urban, Commissioners Adams, Egan, Ferrante and Dorans questioned Mr. Olivo.

Commissioner Egan suggested the applicant have only one driveway restricted for ingress and the other for egress. This would keep one parking spot from being lost.

Audience questions:

Residents Albert T. Rinaldi, James Simon, Joe Villarosa, Angie Badrous, Amalia Clarke were concerned that the driveways would be used as a cut through.

A short break was taken at 7:35 p.m. and the meeting resumed at 7:52 p.m. Commissioner Egan called the roll.

During the break, Mr. Gianniti conferred with his client and he advised that, in order to allay some of the residents' concerns, the applicant will amend its request for only one driveway allowing for ingress/egress. That driveway to be located furthest away from the nearest residential home.

Witness:

Robert Streker, PE, a Civil Engineer was sworn to provide expert testimony. Mr. Streker testified that he prepared the site plan submitted in connection with this application. He testified as to stormwater management, landscaping and lighting on the site and responded to the comments in the review letters submitted by the City's experts.

Board questions:

There were no questions from the Board.

Audience questions:

Resident Angie Badrous questioned Mr. Streker with regard to safety concerns.

Witness:

Christine Nazzaro Cofone, PP, was sworn to provide expert planning testimony on behalf of the application. Ms. Cofone testified that she visited the site and reviewed all of the prior approvals and documents submitted in connection with this application. She described the site and the uses in the surrounding area. She testified as to the d-1 and bulk variances being requested by the applicant. Ms. Cofone said that it is her professional opinion that the driveways would promote the free flow of traffic in the area. She clearly addressed the positive and negative criteria for the variances requested. Ms. Cofone also addressed the review letters provided by the City's planner and engineer. She said that no additional site signage is being proposed with this application.

Board questions:

Resident Albert Rinaldi questioned Ms. Cofone.

Closing remarks:

Resident Albert Rinaldi stated that he is not in favor of having access on a residential street. He disagreed with the testimony offered by the applicant's traffic engineer, saying that the lights from cars exiting to East 52nd Street will negatively impact residents living on the other side of the street.

Resident James Simon said that Quick Chek has not kept promises made with the previous Board approvals, specifically with regard to the eastern most exit to only allow a right turn out of the site. He said that Quick Chek allows people to hang out and be noisy in the parking lot. He does not want to see a driveway to East 52nd Street.

Resident Joe Villarosa spoke of the negative impact that the driveway would have to the neighborhood and other businesses in the area. He asked the Board to deny the application.

Nabil Sedrak, owner of the gas station at the end of the block, said that Quick Chek is hurting the small business in the neighborhood.

Mr. Gianetti, in his closing remarks, reiterated some of the testimony given by the applicant's professionals. He said that the positive criteria outweighs the negative criteria. Allowing for the new driveway will provide better circulation today and after the turnpike work is completed. He stated further that the applicant's experts have provided sufficient positive testimony to grant approval of this application. Mr. Gianetti respectfully requested the Board consider those proofs and approve the application

Caucus:

Chairman Urban said that he understands the concerns of the residents. It appears thought that Quick Chek has made a valiant effort to address those concerns by amending their

original request for two driveways to one driveway. Commissioner Urban said that Quick Chek has met its burden of proof for approval of this application.

Commissioner Adams said that, but for the interchange project, he doubts this application would be before us tonight. The Turnpike project has a significant impact on the residents in that neighborhood and Quick Chek is trying to improve the flow of traffic. The testimony offered by the applicant's experts is reassuring that such impacts will be minimal in scope.

Commissioner Ferrante said that the residents in this area have been impacted the most with the work being done at the Turnpike. He said that his initial decision regarding this application was to vote against the application until the request was reduced from two driveways to one driveway as a solution to the concerns of the residents. Commissioner Ferrante further stated that he feels that most cars entering the Quick Chek site will be entering from the East 53rd Street entrance.

Commissioner Dorans said that he sympathizes with the impact the construction in the area has had on the residents in the area. He knows that it is frustrating. Commissioner Dorans stated that he approves with the compromise by Quick Chek, which shows him that Quick Chek is willing to work with the neighbors.

Commissioners Weickert, Lombardi and LeFante concurred with their fellow Commissioners

Commissioner Egan commented that the decision to limit the application to one driveway shows the desire of the applicant to work with the neighbors. The applicant has met its burden of proof.

Commissioner noted that Commissioner Dorans will not be voting this evening

Commissioner Adams made a motion to approve the application subject to any and all conditions agreed to across the record. Commissioner Lombardi seconded the motion and a unanimous vote followed. *Commissioner Dorans did not vote.*

Adoption of Resolutions:

• Z-16-002 GIUSEPPE and ASSUNTINA ALI – Site: 15 East 3rd Street in City Block 356, Lot 1

- Commissioner Ferrante made a motion to adopt the resolution and Commissioner Le Fante seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 8:51 p.m.

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

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