

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 17, 2016

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, October 17, 2016, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Vice-Chairman Adams called the meeting to order at 6:07 p.m. Present at the meeting were Vice-Chairman Adams, Commissioners Egan, Lombari, LeFante, Pineiro, O'Brien and DiLullo. Chairman Urban and Commissioners Ferrante, Dorans and Pellitteri, were absent.

Also present was Richard N. Campisano, Esq., Board Counsel, Lillian Glazewski, Land Use Administrator and Robert Russo, PE, consulting City Engineer.

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:

Commissioner Lombari made a motion to adopt the minutes of the regular meeting held on August 15, 2016. Commissioner Pineiro seconded the motion and a unanimous vote of eligible members followed.

Commissioner Egan made a motion to adopt the minutes of the regular meeting held on September 19, 2016. Commissioner O'Brien seconded the motion and a unanimous vote of eligible members followed.

Public Hearing:

Z-16-013 - 269 AD, LLC – Site: 269 Avenue C in City Block 276, Lot 24 *[The applicant is seeking preliminary and final major site plan approval as well as F.A.R. and bulk variance relief to convert the first floor of the existing building from commercial to two-residential apartments.)*

Robert Arminonte, Esq., attorney for the applicant, stated that the existing building consists of four residential apartments and one commercial space on the ground floor. He said that applicant is requesting permission to convert the ground floor into two residential apartments which would increase the number of apartments in the building from four to six. Mr. Arminonte offered his exhibits into evidence and called his first witness.

Witness:

Christopher Juchnik, AIA sworn to provide expert testimony in support of this application. Mr. Juchnik testified that he was retained by the applicant to prepare the architectural plan and that he is also the project manager for this project. Mr. Juchnik described the site plan, existing building and surrounding area. He said that the building footprint would remain the same. Mr. Juchnik also addressed the comments offered by the City's consulting Engineer and Planner. He addressed the parking area, handling of trash and variances required.

Board questions

Vice-Chairman Adams, Commissioner Lombardi and City Engineer Rob Russo questioned Mr. Juchnik.

Audience questions:

Residents Frank Carrera and James Macaluso questioned Mr. Juchnik.

Audience Comments:

There were no comments from the general public.

Counsel's Closing comment:

Mr. Arminonte said that he relies on the testimony provided and respectfully requested the Board approve the application.

Caucus

Vice-Chairman Adams commented that the applicant is taking a nonconforming use and converting it to a compliant use. The location of this property is close to the Light Rail Station which will mitigate the deficiency in the number of parking spaces. It is his opinion that this request should be granted.

Commissioner Egan commented that the property is being brought into conformity and because of that he will vote in favor.

Commissioners LeFante and Lombardi had issue with the requested parking variance.

Commissioner Pineiro was in favor of the conversion from commercial to residential and the proximity of the building to the Light Rail Station. He feels that there will be no major impact to the surrounding area.

Commissioners O'Brien and Di Lullo said they are in favor of the application.

Vice-Chairman Adams made a motion to approve the application and Commissioner LeFante seconded the motion. All commissioners present (except for Commissioner Lombardi) voted in favor of the application. With six aye votes and one nay vote, the application was approved.

(Commissioner Egan recused himself because of a conflict with this application.)

Public Hearing:

Z-16-014 - SANTINA MANGANO – Site: 837-839 Avenue C in City Block 112, Lot 22 *[The applicant is seeking a Certificate of Nonconformity to continue the use of the house as a three-family residence.]*

Donald J. Meliado, Jr., Esq., attorney for applicant offered his exhibits into evidence and called his first witness.

Witness

Santina Mangano, daughter of the late Rosa Calderone, was sworn to provide factual testimony in support of this request for a Certificate of Nonconformity. Ms. Mangano testified that her parents purchased the home in 1959 and she was raised in the home. She said that the home has been used as a three-family residence as far back as she can remember. Ms. Mangano further testified that the house has been inspected by the State of New Jersey and Bayonne Fire Department over the years and they list the home as a three-family residence. The home is currently under contract for sale.

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Audience comments:

There were no comments from the general public.

Counsel Comments:

Mr. Meliado said that it has always been the intent to maintain the home as a three-family residence. In light of the testimony and exhibits submitted, Mr. Meliado respectfully requested the Board approve the application for a Certificate of Nonconformity.

Caucus:

Vice-Chairman Adams commented that the documents submitted clearly indicate that this property has been a three-family for a very long time and the relief requested should be granted.

Commissioners LeFante, Lombari, Pineiro, O'Brien, Di Lullo concurred.

Commissioner Lombari made a motion to approve the application and Commissioner DiLullo seconded the motion. A unanimous vote followed.

(Commissioner Egan returned to the dais.)

Public Hearing:

Z-16-015 ELIZABETH O'DONNELL – Site: 85-87 West 30th Street in City Block 157, Lots 5 and 6. *[The applicant is seeking a Certificate of Nonconformity to continue the use of the house as a three-family residence.]*

Paul Weeks, Esq., attorney for applicant, moved his exhibits into evidence and called his first witness.

Witness:

Owen O'Donnell, Executor of the Estate of Elizabeth O'Donnell was sworn to provide factual testimony in support of the application of a Certificate of Nonconformity. Mr. O'Donnell testified that the property was converted into and used as a three- (3) family home since 1964. He testified that the home has been registered with the Department of Community Affairs and was approved; and

Board questions:

Commissioner Adams questioned Mr. O'Donnell.

Audience questions:

There were no questions from the general public.

Closing remarks:

The applicant's attorney Paul Weeks offered that sufficient proof has been provided to the Board for the Board to approve the requested Certificate of Nonconformity allowing this house to remain a three-family residence.

Caucus:

Vice-Chairman Adams commented that the relief sought can be granted.

Commissioner Egan concurred with fellow Commissioner Adams and commented further that all of the documents submitted are clear.

Commissioners LeFante, Lombardi, Pineiro, O'Brien and DiLullo also concurred

Commissioner Lombardi made a motion to grant the Certificate of Nonconformity and Commissioner DiLullo seconded the motion. A unanimous vote followed.

A short break was taken at 6:44 p.m. to allow Paul Weeks, Esq. to speak with his client Hasan Elkomey. The meeting resumed at 6:58 p.m. and Secretary Egan called the roll.

Public Hearing:

Z-16-012 HASAN ELKOMEY – Site: 754 Avenue A in City Block 143, Lot 6 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the construction of a three-family residence.]*

Paul Weeks, Esq., advised the Board that his client is requesting the hearing on the application be adjourned to the November 21, 2016 meeting.

Commissioner Lombardi made the motion to adjourn to November 21, 2016 and Commissioner Egan seconded the motion. A unanimous vote followed.

Public Hearing:

Z-16-017 KHALED ALY – Site: 14 West 34th Street in City Block 139, Lot 27 *[The applicant is seeking preliminary and final major site plan approval, height and bulk variance relief to allow the reconstruction of a fire-damaged two-family house.]*

Paul Weeks, Esq., attorney for applicant, stated that the home on this property was destroyed by a fire in February, 2015 and the only thing remaining is the foundation and ground floor façade and floor of the first floor. The applicant is seeking to rebuild the two-family home but is in need of several variances including a height variance. Moved exhibit list into evidence.

Witness:

Daniel A. Roma, AIA was sworn to provide expert testimony in support of the application. Mr. Roma stated that he prepared the site plan and stated that the applicant purchased the property after it was damaged by fire. He said that after the fire the building was in poor condition and had to be demolished. It is now the desire of the applicant to reconstruct a two-family home on the existing footprint, however several variances, including a height variance is required. There will be a new deck and dormers adding to the height of the structure and the proposed use will have two (2) parking spaces.

Board questions:

Vice-Chairman Adams, Commissioners Lombardi and Egan and City Engineer Russo questioned Mr. Roma.

Audience questions:

There were no questions from the general public.

Closing Remarks:

Attorney, Paul Weeks said he relied on testimony of his expert witness and respectfully requested the board approve the application.

Audience Remarks:

There were no comments from the general public.

Caucus:

Vice-Chairman Adams commented that the same footprint of the building is being used and he feels that the requested variances can be granted

Commissioner Egan said that the applicant is bringing back a home that was already there.

Commissioners LeFante, Lombardi, Pineiro, O'Brien and, DiLullo concurred.

Commissioner Egan made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Lombardi seconded the motion and a unanimous vote followed.

(Lombardi recused himself from hearing the next application)

Public Hearing:

Z-16-016 NEW YORK SMSA LIMITED PARTNERSHIP VERIZON WIRELESS – Site: 458-462 Kennedy Boulevard in City Block 237, Lot 49 *[The applicant is seeking preliminary and final major site plan approval as well as use and bulk variance relief to allow the installation of a small network mode facility at the existing site.]*

Kevin R. Jones, Esq., attorney for the applicant said that the applicant is seeking major site plan and use variance approval to install a small network node facility on the roof of the existing building. Mr. Jones offered his exhibits into evidence and called his first witness.

Witness:

Chris Cirrotti, PE of Dewberry Engineers was sworn to provide expert testimony in support of this application. Mr. Cirrotti described the drawings prepared by his firm and explained the function of the wireless facility. He said that that antennas were designed in such a way to minimize its visual effect. Mr. Cirrotti also testified that the building is structurally sound for the proposed antennas and equipment cabinets. He said that this is an unmanned facility that is remotely monitored and secured. Routine visits by a tech from Verizon will be made to the facility at four to six week intervals. Mr. Cirrotti also said that the screening of the antennas will be constructed with the discussion and approval of the City's professionals. In addition the necessary signage will be placed around the antennas in accordance with FCC rules and regulations.

Board questions:

Commissioner Pineiro and consulting City Engineer Rob Russo questioned Mr. Cirrotti.

Audience questions:

There were no questions from the general public.

Witness:

Frances Boschulte, an RF and EMF with PierCon Solutions was sworn to provide expert testimony. She testified that Verizon instructed her firm to perform an independent assessment of the facility and its environs to determine if this facility would be compliant with FCC requirements. After reviewing and analyzing the information gathered, it was determined that the potential RF exposures would be well below general public limits for all publicly accessible areas at this location and nearby properties.

Ms. Boschulte also testified that there is an identifiable need for this facility at the proposed location which will help cure the applicant's gaps in coverage in this area,

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Witness:

Tsvia Adar, a professional planner with Dewberry Engineers, Inc. was the next witness to be sworn in to provide expert testimony. Ms. Adar testified that he reviewed all of the documents, he conducted a site visit and took photos and reviewed the City Ordinance and Master Plan in preparation for his testimony.

Ms. Adar testified that because the applicant is licensed by the Federal Communications Commission (FCC), this satisfies the applicant's burden under the Municipal Land Use Law (MLUL) to show that this use promotes the general welfare. In addition, it was her testimony that the facility satisfies the need for wireless providers at this location and therefore was particularly suited for the proposed use as they are utilizing an existing structure.

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Closing:

The applicant's attorney Kevin Jones said that the applicant diligently pursued approved sites and was unsuccessful in finding one that would cover the gap required. He said that the applicant, through the testimony of its experts, demonstrated the least intrusive means to achieve and received approval from this Board. Therefore, it is respectfully requested that the Board approve this application.

Caucus:

Vice-Chairman Adams thanked the applicant for a comprehensive presentation that has provided sufficient evidence to approve this application. Commissioner Adams asked that the applicant meet with our Board professionals with regard to the coloring and stealth coverage of the antennas.

Commissioners Egan, LeFante, Pineiro, O'Brien and Di Lullo concurred with Vice-Chairman Adams.

Commissioner Di Lullo made a motion to approve the application subject to the conditions spread across the record and Commissioner O'Brien seconded the motion. A unanimous vote followed.

Adoption of Resolutions:

- **Z-16-011 ANN and CHRISTOPHER ROACH – Site: 314 Avenue B in City Block 26, Lot 8**
 - Commissioner Pineiro made a motion to adopt the resolution and Commissioner Di Lullo seconded the motion. A unanimous vote followed.
- **Z-16-008 KRZYSZTOF CZEKAJ – Site: 3 Elm Court in City Block 473.02, Lot 2**
 - Commissioner O'Brien made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote followed.

- **Z-16-007 OUTFRONT MEDIA, LLC, Site: NJ Highway Route 440N in City Block 506, Lot 2 and Block 468, Lot 2**
 - Commissioner Egan made a motion to adopt the resolution and Commissioner O'Brien seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 8:25 p.m.

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

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