

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JUNE 19, 2017

A REGULAR MEETING of the Zoning Board of Adjustment was held on Monday, June 19, 2017, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:09 p.m. Commissioner Adams called the roll. Present at the meeting were Chairman Urban, Commissioners Adams, Egan, Pellitteri, Le Fante, Lombardi, Pineiro and DiLullo. Commissioner O'Brien and Dorans were absent.

Also present was Richard N. Campisano, Esq., Board Counsel, Lillian Glazewski, Land Use Administrator, Robert Russo, PE, consulting City Engineer and Peter Van den Kooy, PP, consulting City Planner.

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 Adams made a motion to adopt the minutes of the regular meeting held on May 15, 2017. Commissioner Pineiro seconded the motion and a unanimous vote of eligible members followed.

Communications:

A letter received from Michael Miceli, Esq., attorney for application Z-09-017 Bayonne BK, LLC (formerly known as Vanick-Kennedy, LLC) requesting a one year extension of time to begin construction.

Commissioner Egan made the motion to grant the extension through June 19, 2018 and the motion was seconded by Commissioner Le Fante. A unanimous vote followed.

Public Hearing:

Z-17-009 – 258 BROADWAY, LLC – Site: 258 Broadway in City Block 273, Lot 32.01 *[The applicant is seeking preliminary and final major site plan approval to construct a three-story mixed-use building containing a commercial space and five residential units.]*

Christopher Vitale, Esq., attorney for applicant gave a brief description of the application at hand, offered his exhibits into evidence and called first witness:

Witness:

Pietro Barberi, manager and soon to be principal of applicant was sworn to provide factual testimony in support of the application. Mr. Barberi testified that his family has owned the property, which was used for storage and parking, for over twenty years. The property is adjacent to the applicant's kitchen and bath retail store business. Mr. Barberi testified that the applicant wants to downsize the business. He said that the hours of operation will be from 8:00 a.m. to 5:00 p.m. Monday through Friday. Only one employee will be in the store at a time.

Board questions:

Chairman Urban and Commissioner Adams questioned Mr. Barberi.

Audience questions:

Resident Nancy DeMaria questioned Mr. Barberi because her house is adjacent to the subject property in the rear.

Witness:

Stephen Kawalek, RA, PP was sworn to provide expert testimony in support of the application. Mr. Kawalek addressed all variances requested and he responded to the City

Planner and City Engineer's comments. He testified that there would be no significant impediment to having a residential unit on the first floor in the rear. Mr. Kawalek addressed the positive and negative criteria and stated that the site is particularly suited for this type of use and approval can be granted without a negative affect on the surrounding neighborhood.

Board questions:

Commissioners Adams and Egan questioned Mr. Kawalek. City Planner Peter Van den Kooy also questioned Mr. Kawalek.

Audience questions:

Resident Nancy DeMaria questioned Mr. Kawalek.

Closing comments:

Resident Nancy DeMaria said she is concerned with the impact to her property during construction.

Christopher Vitale, Esq. said that he believes this to be the most productive use of the property. He respectfully requested the Board approve this application.

Caucus:

Chairman Urban said that the applicant has met the criteria for approval. He said that he feels that Mrs. DeMaria's concerns will be taken into consideration by the applicant. He also stated that the handicap apartment is an excellent idea.

Commissioner Adams said that this is a terrific example of infill development comporting with the neighborhood and area. The bulk variances are all based on existing conditions and the use variance is taken care of by a handicapped apartment.

Commissioners Pellitteri, Pineiro, Di Lullo, Lombari, Le Fante and Egan concurred with their fellow commissioners.

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

A short break was taken at 8:00 p.m. and the meeting resumed at 8:06 p.m. Commissioner Egan called the roll. *Chairman Urban was not present for the remainder of the evening due to a conflict of interest with regard to the next two applications listed on the agenda.*

Public Hearing:

Z-17-011 CYNTHIA BERRIGAN – Site: 20 Evergreen Street in City Block 319, Lot 23 *[The applicant is seeking bulk variance relief for minimum parking stall size according to Section 35-17a of the City Zoning Ordinance.]*

Stephen S. Rose, Esq., attorney for applicant, offered his exhibits into evidence and called his first witness.

Witness:

Cynthia Berrigan, applicant, was sworn to provide factual testimony in support of this application for variance relief. Ms. Berrigan described the existing property and said that she intends to occupy one of the units.

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Witness:

Al Sambade, AIA, PE, PP was sworn to provide expert testimony in support of this application. Mr. Sambade said that the only variance being sought is for parking stall size. He opined that the proposed stall size is consistent with all other developments in Bayonne. He stated that the neighborhood detriment test is satisfied because the variance would not cause a detriment to the public health, safety and welfare.

Board questions:

Commissioner Adams questioned Mr. Sambade.

Audience questions:

There were no questions from the general public.

Closing remarks:

Stephen S. Rose, Esq., said that the requested variance is a de minimis request and he asked the Board to look favorably on this application.

Caucus:

Vice-Chairman Adams said that he sees no negative impact to the neighborhood by granting this variance.

Commissioner Egan said that he is in favor of granting the variance and Commissioners Le Fante, Lombari, Di Lullo, Pellitterri and Pineiro, concurred.

Commissioner Lombari made a motion to approve the application subject to any and all conditions agreed to and spread across the record. Commissioner Le Fante seconded the motion and a unanimous vote followed.

Public Hearing:

Z-17-012 - LEADERS WITHOUT LIMITS A NJ NONPROFIT CORP. – Site: 215 Prospect Avenue in City Block 421, Lot 18.11 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow a child development center at the site.]*

Stephen S. Rose, Esq., attorney for applicant entered exhibits into evidence and called his first witness.

Witness:

Sharon Lockett, a managing member of the applicant was sworn to provide factual testimony in support of this application. Ms. Lockett said the applicant desires to open a child day care center from the proposed location. She testified that Leaders Without Limits is licensed by the State of New Jersey. She gave her credentials for this type of work and said that three other professionals would also be on site to assist. Ms. Lockett said that the facility would operate Monday through Friday from 6:30 a.m. to 6:00 p.m. There would be a half-day session on Saturday. Ms. Lockett said that the property is located across the street from Lincoln School. She said that the use is intended for education and child care, including a day care.

Board questions:

Commissioners Adams, Egan, Le Fante, Pellitteri, Pineiro and Di Lullo questioned Ms. Lockett.

Audience questions:

There were no questions from the general public.

Witness:

Alan Feld, AIA was sworn to provide expert testimony. Mr. Feld described the conversion of the deli and condominium on the first floor to a learning center. He said that the

space would accommodate twenty-five (25) children and would be ADA compliant. The installation of new sign and new entrance door is the only work to the exterior of the building that is being proposed. Mr. Feld addressed the handling of trash. He also addressed the positive and negative criteria and said that this type of use is beneficial to the community. He further testified that approval of this application would not cause detriment to the neighborhood or surrounding area.

Board questions:

Commissioners Adams and Egan questioned Mr. Feld.

Closing remarks:

Resident Charlene Crawford spoke in favor of the application. Ms. Crawford said that she is familiar with the program and that it is a good program. Also, the hours of operation are convenient for parents.

Caucus:

Vice-Chairman Adams said that this is a no-brainer. The use is inherently beneficial and is compatible with the residential zone. The bulk variances requested are a continuing nonconforming use. This program will add to the value of the community.

Commissioner Egan expressed his concern about the plans for pickup and drop off. However, this is an inherently beneficial use. Commissioner Egan asked the applicant to put more thought into pickup and drop off.

Commissioner Le Fante said that he also had the same concerns as Commissioner Egan. However, this type of facility is needed. Mr. Le Fante asked the applicant to assign a teacher outside to greet the children.

Commissioner Lombari said that the idea is awesome, however the area is extremely over populated with traffic. The drop off will create a problem.

Commissioner Di Lullo concurred with Commissioners Egan and Lombari.

Commissioner Pellitteri expressed his concern of possible future expansion of the Center.

Commissioner Pineiro said that this is not a good location for this type of application.

Commissioner Egan made a motion in the affirmative and Commissioner Le Fante seconded the motion. The following vote was recorded:

Commissioners Adams, Egan, Le Fante and Di Lullo voted to approve the application.
Commissioners Lombari and Pineiro vote against the application
Commissioner Pellitteri abstained.

Adoption of Resolutions:

- **Z-17-008 MICHAEL BIXENSPANNER – Site: 15 Cottage Street in City Block 319, Lot 4**
 - Commissioner Lombari made a motion to adopt the resolution and Commissioner Pineiro seconded the motion. A unanimous vote followed.
- **Z-17-005 – 150-152 PROSPECT PARTNERS, LLC – Site: 150-152 Prospect Avenue in City Block 434, Lots 21 & 22**
 - Commissioner Egan made a motion to adopt the resolution and Commissioner Pellitteri seconded the motion. A unanimous vote followed.
- **Z-17-010 GARY La PELUSA LANDSCAPING, LLC – Site: 41-43 West 19th Street in City Block 220, Lot 5**
 - Commissioner Lombari made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote followed.
- **BAYONNE BK, LLC (formerly known as Vanick-Kennedy, LLC) – Site: 79-87 Kennedy Boulevard in City Block 346, Lots 22, 23, 24, 25**

- Commissioner Egan made a motion to adopt the resolution and Commissioner Pineiro seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 8:30 p.m.

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

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