ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
NOVEMBER 20, 2017

A REGULAR MEETING of the Zoning Board of Adjustment was held on Monday, November 20, 2017, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:10 p.m. Commissioner Egan called the roll. Present at the meeting were Chairman Urban, Commissioners Adams, Egan, LeFante, Lombari, Dorans, De Ros and Simmons. Commissioners DiLullo, Pelliteri and Pineiro were absent.

Also present was Richard N. Campisano, Esq., Board Counsel, Alicia Losonczy, Zoning Board Secretary, Robert Russo, PE, consulting City Engineer and Donald M. Meisel, P.P. 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 October 16, 2017. Commissioner Lombari seconded the motion and a unanimous vote of eligible members followed.

Communications:

Richard N. Campisano, Esq. read a letter from Anthony Arturi, Esq. requesting to adjourn application #Z-16-022 409 KENNEDY BOULEVARD, LLC since his architect had a conflict and needed to appear before the Hudson County Planning Board at the same time. The matter will be carried to the December 18, 2017 meeting. A motion was made by Commissioner

Adams to grant the adjournment to December 18, 2017. Commissioner Egan seconded the motion and a unanimous vote followed.

Chairman Urban, having a conflict, recused himself from this application.

Public Hearing:

Z-17-023 – HUDSON PROPERTY HOLDINGS, LLP – 87 West 43rd Street in City Block 88, Lot 15 *[The applicant is seeking a bulk variance for parking stall size pursuant to Section 35-17.5 of the City of Bayonne Zoning Ordinance.]*

Peter Cecinini, Esq., attorney for applicant, moved his exhibits into evidence and called his first witness.

Witness:

Martha Brazoban, Registered Architect, AIA, was sworn to provide factual testimony in support of the application. Ms. Brazoban described the project as the construction of a new two-family home on what is currently a vacant lot. Three nine-foot wide parking spaces will be provided. Ms. Brazoban sees no negative criteria in regard to this application and says the applicant meets all of the zoning requirements except they are seeking relief for the parking stall size width.

Board Questions:

There were no questions from the Board.

Audience Questions:

Thomas D'Alesso asked if the parking will be on the street or in the home. Ms. Brazoban said there will be a driveway for two spaces.

Roy Fischman, residing at 90 West 43rd Street, has no issue with the proposal.

Closing Remarks:

Peter Cecinini, Esq. relied on the testimony provided and respectfully requested the Board look favorably upon this application.

Closed Caucus:

Commissioner Adams said they have had many similar applications that have been approved and is in support of this application. Commissioner Egan, LeFante, Dorans, Lombari, Simmons and De Ros concurred.

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

Public Hearing:

Z-17-014 – BRIDGES GYMNASTICS CENTER, INC. – 56 New Hook Road in City Block 426, Lot 2 *[The applicant is seeking preliminary and final major site plan approval and use variance relief to allow the use of a gymnastic center on the second floor of the existing building.]*

William J. Finnerty, Esq., attorney for the applicant, moved his exhibits into evidence and called his first witness. The applicant runs a gymnastics center in Bayonne and one in Staten Island. They are running the gymnastic center on the second floor and requesting a variance to continue to do so.

Witness:

Mary Fontana, the owner, said that she runs Richmond Gymnastics Center in Staten Island which has been in operation since 1976 and ridges Gymnastics Center in Bayonne. Fifteen years ago, she was invited to Bayonne to begin operating her program in Bayonne out of the Jewish Community Center and then relocated to Assumption Church hall for ten years. They are in their present location for about a year now. Locations are difficult to find since they need a very high ceiling for their equipment and sport. They have approximately six employees and have had no accidents while operating at their current location.

Board Questions:

Chairman Urban and Commissioners Lombari and Egan questioned Ms. Fontana.

Audience Questions:

There were no questions from the audience.

Witness:

Al Sambade, RA, PP, from DAL Design Group, was sworn as an expert witness. Mr. Sambade provided information on his experience and Chairman Urban recognized Mr. Sambade as an expert. Mr. Sambade testified that the applicant is seeking preliminary and final major site plan approval and use variance relief to allow the use of a gymnastics center on the second floor of the existing building which used to be Airflyte Electronics Company, one of the top five former employers of the City. The site is a former industrial space and if not rented to the applicant would most likely remain vacant. Mr. Sambade explained how the applicant could not find the space they needed for rent anywhere else in Bayonne. He also stated the new Master Plan recognizes that indoor facilities are needed to serve recreational needs of children and senior citizens. Mr. Sambade provided further evidence of the benefits to the community stating national studies show that youth involved in activities has been proven extremely beneficial.

Mr. Sambade agrees with the City Engineer and Planner's recommendations, converting one parking space into a handicapped parking space but since the applicant is only a tenant, they will make the recommendation to the owner of the building. He explained how the benefits substantially outweigh any of the detriments.

Board Questions:

There were no questions from the Board.

Audience Questions:

Ludella Tetley, Tammy LaVilla, Michael Sommers, Roy Fischman and Aziza Kroun spoke in support of this application.

Closing Remarks:

Mr. Finnerty relied on the testimony provided and respectfully requested the Board approve the application.

Closed Caucus:

Chairman Urban stated he felt the applicant met the criteria for approval and it is well-suited, adding that the applicant offers an excellent service to the children in this area. He commented that the addition of a special needs program would make it a homerun.

Commissioners Adams, De Ros, Simmons, Lombari, Dorans, LeFante and Dorans concurred.

Commissioner Adams 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.

Public Hearing:

Z-17-026 – LEVIN PROPERTIES, LP – 21 -33 East 53rd Street in City Block 36, Lots 4 and 5 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the construction of a 2,103-square foot fast food restaurant with drive-through services, 33 onsite parking and outdoor seating area.]*

Michael Miceli, Esq., attorney for applicant, moved his exhibits into evidence and called his first witness. He said the site is located in the Twin City Shopping Center; currently an area with wooden pilings driven into the ground with a portion of the site in Jersey City.

Witness:

Robert L. Streker, PE, from Bohler Engineering, was sworn to provide factual testimony in support of the application. Mr. Streker testified the municipal boundary goes through the shopping center. There are no structures on the lot today and access is through the Bayonne Shopping Center.

Although sixty-four parking spaces would be required, the applicant has proposed thirty-three. He states there is an abundance of parking on the Jersey City portion of the lot. In the entire lot, 187 are required based on Jersey City's code. There are currently 306 spaces, therefore, there are 119 in excess. The anticipated sharing of facilities will offset any deficiency and he doesn't anticipate any issues. Mr. Streker explained that deliveries would most likely be two to three times a week to the rear of the building and take approximately thirty minutes. They would be handled during off-peak hours.

There is a trash enclosure that is gated. A five-foot set back variance is required for this. Six pole-mounted light fixtures, landscaping, a decorative fence and a rail system mimicking what is at the Walgreen's, will provide decorative elements. The menu board would be treated as a free-standing sign. Mr. Streker stated that the applicant agrees to comply with everything in the Planner and Engineer's reports.

Board Questions:

Chairman Urban, Commissioners Lombari, De Ros and Egan questioned Mr. Streker.

Audience Questions:

Mark D. Madaio, Esq. introduced himself to the Board as an attorney representing the owners of Burger King at 1088 Broadway and questioned Mr. Streker.

<u>Witness</u>:

Paul B. Going, P.E., Traffic Engineer, prepared a traffic report. He testified the shopping center on the overall property is 93,000 square foot. The municipal boundary did not affect the way he analyzed it. He stated the applicant is proposing to realign the driveway for better flow. Mr. Going testified that the applicant is intending to permanently close the westerly curb cut on 53rd Street. Proposed are 40 indoor seats and 11 outdoor seats. Mr. Going believes there is ample parking. His company studied eight Taco Bell restaurants for the purpose of this report. Mr. Going believes if approved, this project would bring forth a positive change.

<u>Board Questions</u>:

Chairman Urban, Commissioner Adams and Dorans and consulting City Engineer Rob Russo questioned Mr. Going.

<u>Audience Questions</u>:

Mark D. Madaio, Esq. questioned Mr. Going.

<u>Witness</u>:

John McDonough, PP, was sworn to provide factual testimony in support of the application. Mr. McDonough testified that many of the spaces in the gateway community have been transforming. He stated the applicant will continue the common thread of the pillar and rail system with Quick Check and Walgreen's in that vicinity, creating an integrated and connected facility. Mr. McDonough testified the applicant was seeking relief from two standards pertaining to the drive-through. He believes the project as a whole is a value and adds vitality and aesthetic to the area. The 2017 Master Plan Reexamination has numerous references to improving Broadway and the gateway and testified that there is substantial consistency with the plan. Mr. McDonough states this is a very positive repurposing and feels approval is warranted according to the testimony. It can be added as a condition of approval that this will be a Taco Bell or the applicant would return to the Board.

<u>Audience Questions</u>:

Mark D. Madaio, Esq. questioned Mr. McDonough.

<u>Closing Remarks</u>:

Michael Miceli, Esq. relied on the testimony provided and respectfully requested the Board approve the application.

<u>Audience Comments</u>:

Mark D. Madaio, Esq. said he disagrees with the experts' interpretations and feels this is not the best idea for what will be the gateway to the community.

<u>Closed Caucus:</u>

Chairman Urban felt the applicant met the burden of proof and the project would prove to be an improvement to the area. It conforms to the other businesses in the area and if it goes forward as a Taco Bell, he will vote in favor of this application. Commissioners Adams, De Ros, Simmons, Lombari, Dorans, LeFante and Egan concurred.

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.

<u>Adoption of Resolutions:</u>

- **Z-17-021 – GEORGE BRATTOLE - Site: 538 – 544 Kennedy Boulevard in City Block 215, Lot 44**
    - Commissioner Adams made a motion to adopt the resolution and Commissioner Lombari seconded the motion. A unanimous vote of eligible members followed.

- **Z-17-022 – JOEL THERVIL - Site: 67 Evergreen Street in City Block 320, Lot 15**
  - Commissioner Adams made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote of eligible members followed.
- **Z-17-024 – JOHN AND LINDA ESPOSITO - Site: 546 – 548 Kennedy Boulevard in City Block 209, Lots 51 and 52**
  - Commissioner Adams made a motion to adopt the resolution and Commissioner Lombari seconded the motion. A unanimous vote of eligible members followed.

A motion was made to close the meeting at 9:46 p.m.

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

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