

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JANUARY 28, 2019

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, January 28, 2019, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:05 p.m. Secretary Egan called the roll. Present at the meeting were Chairman Urban, Commissioners Adams, Egan, De Ros and Pineiro. Commissioners LeFante, Dorans, Lombardi, DiLullo, Pelliteri and Simmons were absent.

Also present was Richard N. Campisano, Esq., Board Counsel, Robert Russo, PE, City Engineer's Office, Malvika Apt, PP, consulting City Planner and Lillian Glazewski, Board 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:

Commissioner Adams made a motion to adopt the minutes of the regular meeting held on December 17, 2018. Commissioner Pineiro seconded the motion and a unanimous vote of eligible members followed.

Communications:

None

- ❖ *Commissioner Pineiro left the meeting due to a conflict of interest in hearing the next public hearing..*

Public Hearing (carried):

Z-18-020 FRANCINE TAGLIARENI (*Interpretation/Appeal*) – Site: 10 West 13th Street; Block 264, Lot 22 *[The applicant has filed for an interpretation from the Zoning Board of Adjustment in regard to the garage and auto repair shop use of the property.]*

Paul Weeks, Esq., attorney for applicant offered additional photos into evidence.

Donna Ward, Zoning Officer was called to give testimony in support of her decision and opinion of the use of the property. Ms. Ward stated that she received a complaint from the Fire Department regarding a garage at the subject property being used as an auto repair/body shop/spray painting vehicles. She said that in response to said complaint she, along with an enforcement officer and fire inspector went to see the garage. At that time, they observed an extensive auto repair and auto body repair garage which was being operated by Mr. Albert Laureano.

Mr. Laureno was called back to address the testimony of Ms. Ward. He said that he does not run a repair/body shop and that he works solely on his own cars. Ms. Ward responded that she also received notice from another individual who said that their relative had had work performed by Mr. Laureno. In response to that statement, Mr. Luareno stated that over the years he has helped neighbors on the block with their cars.

Board questions:

Chairman Urban and Commissioners Adams and Doran questioned Mr. Laureno

Closing:

Paul Weeks, Esq. requested that the Board's interpret show that the use of the garage is used strictly for personal use.

Caucus:

Chairman Urban said that the applicant has provided sufficient testimony in favor of the application and he will vote favorably.

Commissioner Adams concurred with Chairman Urban and stated further that there is no heat or restroom facilities in the garage.

Commissioner Dorans also concurred and added that the applicant does not advertise for a business at the site.

Commissioners Lombardi, De Ros and Egan concurred.

Commissioner Adams made a motion to interpret the use of the property for personal automobile storage and private use only. Commissioner Lombardi seconded the motion and a unanimous vote followed.

❖ *Commissioner Pineiro returned to the dais.*

Public Hearing:

Z-18-027 - 265 AVENUE B, LLC – Site: 265 Avenue B in City Block 38, Lot 17 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the conversion of the first-floor commercial space to a one-bedroom apartment.]*

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

Witness:

Al Sambade, AIA, PP, PE was sworn to provide expert testimony in support of the application. Mr. Sambade explained the nature of the application, history of the structure and he described the location of the property and tenant mix and how the applicant proposes to convert the existing vacant commercial space, formerly a beauty shop, into a one-bedroom residential

unit. Mr. Sambade addressed the positive and negative criteria to support the applicant's request for site plan approval and variance relief and provided justification for same. He also testified that he reviewed the reports submitted by the City Planner and City Engineer and he addressed all of the comments therein. He spoke about the proposed location of the refuse area, changes to the current storefront by improving the façade and how the building entrance door could be recessed but there was no room for a vestibule.

Board questions:

Commissioners Adams and Pineiro and consulting City Planner Apte questioned Mr. Sambade.

Audience questions:

There were no questions from the general public.

Closing remarks:

Paul Weeks, Esq., said he relies on his expert's testimony and respectfully requested the Board approve the application.

Caucus:

Chairman Urban commented that he feels the applicant has met its criteria for approval. The proposed residential unit is less intense than the previous commercial use.

Commissioner Adams commented that this is a positive move to bring a building more in conformity to the zone plan. He pointed out that most of the required variances are preexisting. He added that he is in favor of the application subject to the applicant agreeing to recess the front door on Avenue B.

Commissioners Pineiro, Dorans, Lombardi, De Ros and Egan concurred.

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

Public Hearing:

Z-18-026 – 742-746 BROADWAY REALTY, LLC – Site: 9-11 East 33rd Street in City Block 140, Lot 1 *[The applicant is seeking preliminary and final major site plan approval, (d)3 use and bulk variance relief for the construction of a paved and striped 10-space parking lot.]*

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

Witness:

Al Sambade, PP, AIA, PE, was sworn to provide expert testimony on behalf of the application. Mr. Sambade described the relief being sought. He said that the subject property, which was included in the Scattered Sites Redevelopment Plan, has been vacant for many years and he spoke of the history of the property. Mr. Sambade said that he reviewed the consulting City Planner and Engineer's comments and the applicant agrees to same with the exception of curb stops on the business side of the lot. He also stated the applicant will comply with the minimum lighting requirement and signage. The applicant also agrees to reduce the curb cut to 16' in length. He testified the applicant will provide a 5' buffer along 33rd Street and will increase the width of parking spaces. He also testified that there would be signage identifying the lot to the adjacent users.

Board questions:

Chairman Urban and Commissioners Adams, Egan, De Ros, Pineiro and Dorans questioned Mr. Sambade. City Engineer Russo and City Planner Apte also questioned Mr. Sambade.

Audience questions:

Residents Peter Black, Joe Prusko and Zbyszek Senka questioned Mr. Sambade.

Closing statements (residents):

Residents Peter Black, Zbyszek Senka and Joe Prusko offered closing remarks in opposition to the application.

Christopher Vitale, Esq., attorney for the applicant, stated that right now the property is not being put to any productive use and given the unique nature of the property, this is the best use of the property.

Caucus:

Chairman Urban said that the property has been vacant for approximate 15 years. He added that there would not be a negative impact or detriment to the surrounding neighborhood.

Commissioner Adams noted that the use as a parking lot is conditionally permitted under the zoning ordinance. Inasmuch as the applicant has agreed to reduce the curb cut, it is his opinion that all of the other conditions can be granted without negative impact to the neighborhood.

Commissioner Pineiro does not believe there would be a negative impact to the neighborhood.

Commissioner Egan added that the applicant agreed to merge the two lots and he is in favor of the application.

Commissioners Dorans, Lombardi and De Ros concurred.

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

A short break was taken at 8:05 p.m. and the meeting resumed 8:18 p.m. The roll was called.

Public Hearing:

Z-18-024 CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE – Site: 323-329 Broadway in City Block 252, Lot 20 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the first and second floor of the existing building to be converted into a place of worship.]*

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

Witness:

Fernando Fernandez, AIA, was sworn to provide expert testimony in support of the application. Mr. Fernandez described the site plan that he prepared. He addressed the comments submitted by the consulting City Engineer regarding the setback, use of the first floor, schedule and activities, ADA requirements and what was needed for approval of the Fire Sub Code Official. Mr. Fernandez also described the existing structure and how the applicant proposes to improve the landscaping to the south and west of the site where there previously was no landscaping. Mr. Fernandez testified that the bulk of the work will be happening on the second

floor, making new rooms and a place for worship. He described the main entrance, which will be located on Broadway, as well as the handicap access which will be at the back door off West 15th Street. Mr. Fernandez talked about the refuse containment area and fencing.

Board questions:

Consulting City Planner Apte and Commissioner Pineiro and Dorans questioned Mr. Fernandez.

Audience questions:

Resident Solomon Lopez questioned Mr. Fernandez.

Witness:

Michael Scheel, Stake President of the Liberty Park Stake was called to provide factual testimony in support of the application. Mr. Scheel said that there are five existing buildings within their Stake. They have 150 active members in the Bayonne Stake. Mr. Scheel described the day to day use of the building. He said that for Sunday service they brake into individual smaller groups for religious teaching for two hours beginning at 10:00 a.m. and concluding at noon. Some clergy may remain in the church to complete clerical work. The building may be used for holiday parties, community events, an English course, weekly bible study courses, youth recreational activities, etc. Presently, Genealogical Centers are located in other areas; however, they would like to open one in Bayonne eventually.

Board questions:

Commissioners Egan, Adams, Urban, Dorans and Russo questioned Mr. Scheel.

Witness:

Joseph Staigar, PE, traffic engineer, was sworn to provide expert testimony. Mr. Staigar testified that he prepared the traffic report. He said that he studied the parking requirement in our ordinance and checked out the existing on-street parking availability. Mr. Staigar testified that it is his professional opinion that the parking variance can be granted with no detrimental impact to the proposed lot or surrounding area.

Board questions:

Commissioner Dorans, City Engineer Russo and City Planner Apte questioned Mr. Staigar.

Audience:

There were no questions from the general public.

Witness:

David Spatz, PP was sworn to provide expert planning testimony. Mr. Spatz described the uses in the surrounding area and the designated zone for this location. He discussed the conditional uses permitted in the area and stated that the applicant does not meet all of the conditions. Mr. Spatz offered site photos into evidence that were marked as Exhibit A-22. He described the neighborhood as being mixed with commercial and lower density residential housing. Mr. Spatz testified that the requested C-2 variance is justified because of the alternate transportation opportunities and other available parking in the area. He said the basis of his opinion was the testimony of the applicant's traffic engineer. The site in question is an office building and would not require any changes to the building's exterior, just a reconfiguration of

the 2nd floor interior space. The applicant has agreed to restrict the capacity in the building to one hundred twenty (120) at any one time so that the parking issues are limited.

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Closing remarks:

Paul Weeks, Esq., said that the requirements have been satisfied and he respectfully requested that the Board look favorably on this application.

Caucus:

Commissioner Adams said that he is in favor of this application with the condition of limiting the maximum occupancy to 120 congregants and the placement of decorative fencing.

Commissioner Pineiro said that his concerns were met and he would be voting in favor of the application.

Commissioner Dorans concurred with his fellow commissioners and added that the applicant should encourage the use of ride sharing.

Commissioners Lombardi and De Ros concurred.

Commissioner Egan said that the applicant has shown a willingness to work with the community and the Board and he will be voting in favor of the application.

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

Adoption of Resolutions:

- **Z-18-030 HESTON HAZELWOOD – Site: 613 Kennedy Boulevard in City Block 193, Lot 8**
 - Commissioner Egan made a motion to adopt the resolution and Commissioner Adams seconded the motion. A unanimous vote followed.

- **Z-18-028 – 89 WEST 43RD STREET, LLC – Site 89 West 43rd Street in City Block 88, Lot 14**
 - Commissioner Pineiro made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote followed.

- **Z-15-002 BAYONNE AVENUE E URAN RENEWAL, LLC (Removal of Deed Restriction)**
 - Commissioner Egan made a motion to adopt the resolution and Commissioner De Ros seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 9:30 p.m.

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

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