ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JANUARY 27, 2020

A REGULAR MEETING of the Zoning Board of Adjustment was held on Monday, January 27, 2020, 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. Secretary Egan called the roll. Present at the meeting were Chairman Urban, Commissioners Egan, Lombari, Pineiro, DeRos, DiLullo, and Azer. Commissioners Adams, Iapicca and Calcaterra were absent.

Also present were Richard N. Campisano, Esq., Board Counsel, Malvika Apte, PP, consulting City Planner and Robert Russo, PE, City Engineer's Office.

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 December 16, 2019 regular meeting.

Commissioner Lombari made the motion to adopt the minutes and Commissioner DiLullo seconded the motion. A unanimous vote followed.

Communications:

- Communication received from Commissioner Matthew Klimansky announcing his resignation from the Board.

- Communication received from Commissioner/Alternate Ramon Veloz announcing his resignation from the Board.

Public Hearing:

Z-19-031 BAYONNE REALTY GROUP, LLC – Site: 386-388 Broadway in City Block 232, Lots 17 & 18 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to be allowed to construct a three-story residential building with eleven (11) residential units.]*

Paul Weeks, Esq., attorney for applicant after a brief opening statement, entered his exhibits into evidence and called his only witness.

Witness:

Al Sambade, PP, PE, was sworn and accepted as an expert witness. Mr. Sambade testified that he was retained by the applicant to prepare the site plan for the application. He described the location of the property and its present condition. He said the property involves two lots that are located very close to a municipal lot. The applicant intends to demolish the existing structure and construct the new building. Mr. Sambade also described the interior and exterior of the proposed building as well as the exterior with the proposed landscaping. He addressed how the trash would be handled. Mr. Sambade also addressed the comments from our City Engineer Rob Russo, PE and City Planner Malvika Apte, PP. He provided testimony in support of the requested variances, discussing both positive and negative criteria. The requirement for open space was addressed and Mr. Sambade testified that the site is within close proximity to public parks, gym facilities, etc. Mr. Sambade explained that there is no way for the applicant to provide the required number of parking spots.

Board questions:

Chairman Urban, Commissioners Egan, DiLullo, Pineiro and De Ros questioned Mr. Sambade, as did City Planner Apte,

Audience questions:

There were no questions from the general public

Closing remarks:

Paul Weeks, Esq., respectfully requested the Board approve the application.

Caucus:

Chairman Urban said that the application is consistent with other developments in the area and he is in favor of the application.

Commissioner Pineiro expressed his concern with the units that have dens, which could potentially turn into another bedroom; however testimony by the applicant's expert provided clarification which alleviated his concern. He is in favor of this application.

Commissioner Lombari felt the area was too congested and was not in favor of the application.

Commissioner De Ross said he was satisfied with the testimony and he feels the building fits in area.

Commissioner DiLullo had an issue with the parking and he was not in favor of the application.

Commissioners Pineiro and Egan were in favor the application as long as the dens are reconfigured.

Commissioner Azer felt the benefits far exceed the negatives in the area and he is in favor.

Commissioner Egan made a motion to approve the application subject to any and all conditions agreed to and spread across the record. Commissioner Pineiro seconded the motion and the application passed with five affirmative votes. Commissioners DiLullo and Lombari voted against the application.

A short break was taken at 7:12 p.m. and the meeting resumed at 7:23 p.m. Commissioner Egan called the roll called.

Public Hearing:

Z-19-025 JC REHAB, LLC – Site: 202 Kennedy Boulevard in City Block 303, Lot 19 *[The applicant is seeking bulk variance relief for minimum lot area, minimum lot depth, minimum rear yard setback and maximum building height]*

William J. Finnerty, Esq., attorney for applicant, offered his exhibits into evidence and called his first witness:

Witness:

Daniel Roma, Architect was sworn and recognized as an expert witness to provide testimony in support of the application. Mr. Roma said that he was retained by the applicant to prepare the architectural plans for this project. He described the property and said that the property, which is on an odd shaped lot, was formerly a gas station. Mr. Roma described in detail the layout of the proposed two-family home, the entrance location, the units and their configuration, brick façade and parking. He said that the building height will be 35 feet and there will be four (4) new street trees planted as well as new sidewalks and curbs. He described the variances that were being requested. Mr. Roma also addressed the comments made by our consulting City Planner and Engineer in their reports submitted and marked into evidence and made a part of this application.

Board questions:

Chairman Urban, Commissioners Egan, Pineiro and DiLullo questioned Mr. Roma.

Audience questions:

There were no questions from the general public.

Witness:

John McDonough, PP was sworn and recognized as an expert witness to testify on behalf of this application. Mr. McDonough stated that the property is not a usual or traditional property in shape. He testified that the site is particularly suited for the proposed use and it was his opinion that the applicant satisfied the requirements of the special reasons test and the application "advanced several fundamental purposes of zoning, including promoting the public health, welfare and the efficient use of land in a desirable visual environment". Mr. McDonough also testified that the benefits of this application as a whole exceed the negatives and it his opinion that the application can be approved without any detriment to the public good or surrounding neighborhood.

Board questions:

Commissioner DiLullo and City Planner Apte questioned Mr. McDonough.

Audience questions:

There were no questions from the general public.

Closing remarks:

William Finnerty, Esq., in closing said that he would rely on the testimony of his experts and he respectfully requested the application be approved.

Caucus:

Chairman Urban and Commissioner Pineiro said they are in favor of the application conditioned upon the modifications as spread across the record.

Commissioner Azer felt that this would be an improvement to the neighborhood and he was in favor of approving the application.

Commissioner Lombari felt that the applicant did a good job on a tough lot and he also is in favor of the application.

Commissioners Lombari, DeRos, DiLullo and Egan concurred.

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

A short break was taken at 7:55 p.m., the meeting resumed at 8:07 p.m. and the roll was called.

Public Hearing:

P-19-021 MAG REALTY GROUP, LLC – Site: 354 Broadway in City Block 241, Lot 21 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to construct an addition to the existing mixed use building for a total of one commercial space and eight residential units.]*

Christopher Vitale, Esq., attorney for the application gave a brief overview of the application, offered his exhibits into evidence and called his first witness.

Witness:

Rami Bitar, Architect, was sworn and recognized as an expert witness. Mr. Bitar testified that he was retained by the applicant to prepare the site plan for this application. He discussed the propose changes and improvements to the building. Mr. Bitar described the proposed rooftop terrace, its safety features, lighting and tenant accessibility. He added that tenants will have access to additional open space in the rear yard. Mr. Bitar discussed basement storage and signage which he said would comply with the signage standards of the City.

Board questions:

Chairman Urban, Commissioners Egan, DiLullo, Pineiro, City Engineer Russo and City Planner Apte, questioned Mr. Bitar.

Audience questions:

There were no questions from the general public.

Witness:

John McDonough, PP, was sworn and immediately recognized as an expert witness for the applicant. Mr. McDonough provided testimony to support the variances being requested. He addressed the positive and negative criteria and concluded that this application could be granted without a substantial detriment to the public good. He also testified that the proposed application would not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance.

Board questions:

Commissioner DiLullo and City Planner Apte questioned Mr. McDonough.

Audience questions:

There were no questions from the general public.

Closing Remarks

Christopher Vitale, Esq., said that the proposed application would improve the block in general with a modern building that would include amenities. He respectfully request the Board look favorably upon this application.

Caucus:

Chairman Urban said that the applicant has met its criteria for approval. He and Commissioner Pineiro concurred that they liked the architecture and ADA unit.

Commissioners Lombari, Azer, De Ros and Egan were all in favor of the application. Commissioner DiLullo was not in favor because no parking was provided.

Commissioner Lombari made a motion to approve the application subject to any and all conditions agreed to and spread across the record. Commissioner DeRos seconded the motion and the vote was six in the affirmative with Commissioner DiLullo voting against the application.

Adoption of Resolutions:

- **Z-19-014 SIN KAN, LLC d/b/a THAI O'BRIEN – Site: 478 Avenue E in City Block 406, Lot 8**
    - Commissioner Egan made a motion to adopt the resolution and Commissioner Lombari seconded the motion. A unanimous vote of eligible members followed.
- **Z-19-029 CANTALE TESTAMENTARY TRUST – Site 67 West 30th Street in City Block 157, Lot 14**
    - Commissioner Lombari made a motion to adopt the resolution Commissioner Egan seconded the motion. A unanimous vote of eligible members followed.
- **Z-19-030 DOMENICO GERACE – Site: 401 Kennedy Boulevard in City Block 250, Lot 10**
    - Commissioner Lombari made a motion to adopt the resolution and Commissioner Egan seconded the motion. A unanimous vote of eligible members followed.
- **Z-19-028 – 38-40 EAST GRAND STREET, LLC – Site: 38-40 East Grand Street in City Block 71, Lot 17.01**
    - Commissioner Egan made a motion to adopt the resolution dismissing this approval and Commissioner Lombari seconded the motion. A unanimous vote of eligible members followed.
- **Z-19-021 MAG REALTY GROUP, LLC – Site: 360 Broadway in City Block 241, Lot 18.01**

- Commissioner Lombari made a motion to adopt the resolution and Commissioner DeRoss seconded the motion. A unanimous vote of eligible members followed.

A motion was made to close the meeting at 9:00 p.m.

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

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