

Unified Planning/Zoning Board of Adjustments Meeting  
September 5, 2007

The meeting was called to order by chairman, Ken Cassidy, and the pledge of allegiance was recited.

Roll call was taken with the following members present: Ms. Aufsesser, Mr. Cassidy, Ms. DeYoung, Mr. Duffy, Mr. Mendes, Mr. Mullaney, Ms. Rinear, and Mr. Shea. Mr. Olini was absent. The only alternate member present was: Ms. Malanga.

Ms. Rinear made a motion to approve the minutes from the August 6, 2007 meeting and Mr. Cassidy second. The vote was taken with all members voting in favor and Ms. Malanga abstaining.

The first applicant was 226 Main Street Association Block 29, Lot 30

Mr. Alfieri is the attorney. He stated his planner is not available tonight and asked to have the application carried over until November 5, 2007 meeting.

Public questions-

Mary Riley asked about the maintenance of the property. Mr. Irene stated that she should contact code enforcement if there is a problem.

Bob Montfort asked if this would be heard in November since it has been carried since July. Mr. Alfieri stated there were unforeseen circumstances and he hopes to have it resolved in November.

Mr. Alfieri granted the board an extension of time and Mr. Duffy made a motion to carry it until November 5 without the need for re-notice and Mr. Mullaney second. The board voted with all members in favor.

The second application was Mr. & Mrs. Horwath Block 119, Lot 12

The board professionals, Mr. Leyton and Mr. Hoder, were sworn in and the notices approved. This is a D variance so the Class 1 & 3 members stepped down. The survey and architect plans were marked for exhibit. The applicant wants to use the detached garage for additional living space for their mother. Mr. Irene stated there is usually a deed restriction because it is not zoned for multi family and a future owner could then turn the residence into more than 2 residences. He asked if there would be a separate opening for the 2 families and would there be any common areas. The applicant stated yes.

Board questions-

Ms. DeYoung asked if there would be a separate entrance from the outside. The applicant stated no, only through the common area.

Mr. Irene asked if they could go through the garage and not through the common area and the applicant stated that they could only go through the common area on both interior doors but not on the exterior door. He stated they could leave it as a breezeway if the board requested that.

Mr. Mendes asked if there is separate heating and the applicant stated they have radiators now so they will be separate but there will be only one heating unit in the addition.

Mr. Irene asked about the driveway that is circular now and the applicant stated they have an access further down on the road but none on the right side.

The board engineer asked about the parking stating there should be 4 spaces on site so where would they park and the applicant said on the street. The engineer suggested they could widen the driveway for 2 more cars on the plan.

The board engineer also asked about drainage and grading stating that because they are close to the neighbor that would have to go on the street and not on the sidewalk. The applicant agreed to that.

Mr. Irene asked how many kitchens there would be and the answer was 2.

Public questions-

Louis Hawk 3 Center Ave asked if this was going to be an addition or a subdivide. The applicant said it was an addition and not a separate dwelling.

Ms. Rinear made a motion to approve the application with deed restrictions and all conditions stated clearly and Mr. Mendes second. The board voted with all members in favor.

The third applicant was Mr. Najim Block 121, Lot 26.05

The board professionals were sworn in. The applicant was sworn in and notices were approved. The survey was marked as exhibit. The applicant wants to build a shed with no foundation just on a slab for household and yard items. He will meet the setback requirements but has lot coverage of 24.7% now, proposed 26% and in this R100 zone he is allowed 20% coverage. Applicant went over his plans.

The board and public had no questions. Mr. Mullaney made a motion to approve the application and Mr. Shea second. The board voted with all members in favor.

The fourth application was Harold Smith Block 122 Lots 19 & 20

The notices were approved. A person from the public questioned if there were any other notices and Mr. Irene stated that these were the only ones sent to residents. It was decided that this application would be carried over to the November 5, 2007 meeting due to the number of applications before the board tonight. Mr. Alfieri granted an extension of time to the board. Mr. Cassidy made a motion to carry it to the November 5 meeting and Mr. Duffy second. The board voted with all members in favor.

The fifth application was Edelman & Penn Realty LLC Block 35, Lot 6

Mr. Himelman is the attorney. The board professionals were sworn in. It is a D variance so the class 1 & 3 members stepped down. This is a mixed use commercial and residential due to apartments and retail uses. There is a variance needed and waivers as well. Mr. Leber is the engineer. He was sworn in and the site plan and pictures marked as exhibits. Mr. Leber reviewed all the pictures with the board as well as the site plan. This property is presently on Main Street where there are 2 houses vacant. He stated the parking needed to be addressed and that there should be 30 spaces according to the ordinance but there are 24 on the plan and that number should be sufficient due to the storage areas on the plans.

Board questions-

Mr. Shea asked about the historic preservation of the buildings and Mr. Leber stated that there would be an architect review required so the new buildings would have to fit in. The old buildings are not historically protected.

Mr. Cassidy asked why a permitted use is needed and the attorney stated due to the retail stores that will be there.

The board engineer reviewed his letter and concerns. He questioned the west wall and geo grid. Mr. Leber stated they would revise and show on the plans how. He questioned the parking lot being 24' and not 25' and Mr. Leber said it was a mixed use so 24' is permitted. He questioned the signage being 32' max and Mr. Leber said the applicant would comply with the dimensions according to the ordinance. He questioned the dumpster being turned so the parking is better. Mr. Leber said a front loader would be needed and they would look at the curbing for movability. He questioned landscaping and shrubs and Mr. Leber said the applicant would comply. He questioned the buffer strip and Mr. Leber explained the history of the buffer. The engineer suggested they widen the driveway in front for turns and perhaps shift the building. Mr. Leber yes they could due to no side setback requirements. He questioned the lighting being too intense and Mr. Leber said the applicant would comply. Mr. Leber then went on to state the variances that are required and why he felt this type of project was good for the town.

#### Board questions-

Mr. Shea asked how many residential units there would be and the answer was 4.

Mr. Cassidy asked if they could open a restaurant there once it is a commercial use. Mr. Irene stated that from this application it is apartments and retail use. If there were changes they would have to come before the board and explain how it would not be detrimental to the town and the board would decide at that time.

Mr. Leyton stated that the applicant should explain why he feels this is good for the town and preserves the neighborhood. The attorney stated there would be no food establishments. The applicant wants a low impact to the community, just small stores to compliment the landscape of the town.

Mr. Shea asked if there was a marketing survey to see if these stores would prosper here and the attorney stated that the applicant has been in real estate for many years and tries to get community friendly businesses to come into town.

Public questions- Bob Montfort 209 Main Street spoke of the parking problem and asked if the building could be shifted to have a common use entrance on the side. The attorney said the applicant did not like that option when he looked at it.

Mr. Englert, the applicant's architect, was sworn in. He marked his pictures and floor plans as exhibits. He then reviewed all his plans. He went over all the square footage on each level and what was commercial and what was residential. He said the access to the residences would be from the front and the commercial from the back. He said the building is 35' and meets the standard. He said the parking should be 2 spaces for each unit and so therefore there would be 8 needed for residential.

Board questions- Mr. Cassidy asked how many occupants for each unit and if there was a zoning law that stated how many could live in each unit. The attorney said there is no law but the health and fire officials enforce occupancy.

Mr. Cassidy asked if the elevator is only for the retail use and the architect said yes.

Mr. Mendes stated that the attic apartments don't seem to be feasible for families so maybe they could have 1-bedroom units instead of 2 but the architect said that 2 bedroom units are more marketable.

Mr. Leyton stated that the slope on the bathtub was unequal. The architect said they have not looked at all the numbers but they will adjust it.

Mr. Mendes said the resident next door will be wide open and may need some privacy. The attorney said they would comply with the buffer and agree to a fence also.

Ms. DeYoung asked if there were windows in the cellar and would that change the calculations on the stories.

The architect stated they will put them in but it will not change the calculations because a cellar is not a story because it is below ground.

Mr. Mendes asked about the dumpster pick up and also emergency vehicles being able to get into the property. The attorney said they would look at it again when they revise the footprints.

Mr. Shea asked if all the neighbors had been notified and the attorney said yes.

Mr. Mendes asked if a fire escape was needed and the attorney said they would look into that for 3-story buildings.

Mr. Duffy asked if the fire official was given copies of these plans and the attorney said probably not.

The attorney asked for an extension of time to be carried over to the October 1, 2007 meeting without need to re-notice.

Mr. Cassidy made a motion and Mr. Shea second. The board voted with all members in favor.

### Resolutions

#### Rosenbaum Resolution

Mr. Cassidy made a motion to approve the resolution and Mr. Mendes second. The following roll call was taken: Ms. Aufsesser-yes, Mr. Cassidy-yes, Ms. DeYoung-yes, Mr. Duffy-yes, Mr. Mendes-yes, Mr. Mullaney-recuse, Ms. Rinear-yes, Mr. Shea-yes, Ms. Malanga-abstain.

#### Shell Resolution

Ms. Rinear made a motion to approve the resolution and Mr. Cassidy second. The following roll call was taken: Ms. Aufsesser-yes, Mr. Cassidy-yes, Ms. DeYoung-yes, Mr. Duffy-yes, Mr. Mendes-yes, Mr. Mullaney-recuse, Ms. Rinear-yes, Mr. Shea-yes, Ms. Malanga-abstain.

### New Business

Land Use Ordinance 0-29 substitute language. Mr. Irene explained this is the ordinance that the board asked the council to draft different language on. Mr. Mullaney asked if he could vote on this matter because he is a councilman and Mr. Irene stated that he can only not vote on D variance issues but he can recuse himself at any time. Mr. Leyton said that usually council members abstain. Mr. Irene said it was up to Mr. Mullaney whatever he decides. However whatever the decision is this time, he should be consistent all the time. Mr. Cassidy said he believed the board should vote tonight and endorse this for the previous denied application that had come before the board.

Mr. Shea made a motion to approve and Mr. Mendes second. The board voted with 8 members voting in favor and 1 voting against.

Mr. Cassidy reminded all members about the memo from Mr. Mena about not putting confidential information on the website and being sure to shred all old documents and paperwork from the board.

Mr. Cassidy reminded the board about the 54<sup>th</sup> annual dinner and to contact the Borough clerk if they wanted to attend.

Mr. Cassidy also asked the board's permission to request a pay raise for the planning board secretary from the mayor and council as she now has to do an agenda every meeting as well and there has not been a pay raise for that position for many years. Mr. Shea made a motion and Mr. Mullaney second. The board voted with 8 members in favor and 1 member abstaining.

Mr. Cassidy reminded everyone of the fundraiser on Saturday from 1-10pm at the fire department for the fireman that needs a kidney transplant.

Ms. Rinear made a motion to adjourn and Mr. Cassidy second. The board voted with all members in favor.

The meeting was adjourned at 10:45pm

Respectfully submitted,

Diane Cannon  
Board Secretary