

**Minutes of the
Unified Planning/Zoning Board of Adjustment
May 2, 2016
7:00 PM**

A regular meeting of the Unified Planning/Zoning Board of Adjustment of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on May 2, 2016 with Chairman Rickey Butler presiding. Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by publishing notification in *The Independent* on January 14, 2016, by sending notice to the *Asbury Park Press*, and by posting. Chairman Butler called the meeting to order at 7:00 PM requesting a roll call.

On roll call the following members responded present:

Yes: Joseph Altomonte
 Joseph Urbano
 Charles Ross
 John McKenna
 Rickey Butler
 Timothy Moran
 Brett Cannon
 Raymond Ayling
 Kenneth Cassidy

Joseph Urciuoli and Joseph Saporito were absent.

Also present were Michael A. Irene, Jr., Esq., Planning Zoning Board Attorney and Robert W. Bucco, PE, Planning Zoning Board Engineer.

Chairman Butler requested everyone to stand for the Salute to the Flag.

Applicant(s)

*Lombardo & Co., LLC – 145-147 Broad Street – Block 34, Lots 6 & 7
(Minor Subdivision/Site Plan and Variance Application)*

Frederick Kalma, Esq. appeared with the Applicant, Joseph Lombardo of Lombardo & Co., LLC. Mr. Kalma stated the Application is to reconfirm a 2010 minor subdivision of the lots, and realign the lot lines to 65' frontage. The second portion of the Application is for a use variance to construct a duplex on each of the lots as well as a variance for lot coverage as it exceeds 30%. Mr. Kalma informed, Allison Coffin, Planner, will appear for the purpose of presenting testimony with regard to land use and the Master Plan.

Mr. Irene stated as a "D" Variance relief at issue the Class I and III members must step off the dais. Messrs. Altomonte and Urbano left the dais. Approval requires five of seven affirmative votes. Mr. Irene then swore in Mr. Bucco. Mr. Irene confirmed the Statute Notice requirements

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have been met, and the Notice is legally sufficient. Mr. Irene asked if there was any issue with the Notice. There were no comments. Mr. Irene stated the two lot subdivision previously approved that was never perfected, and, therefore, does not exist. The Application is for a two lot minor subdivision with the rest of the use variance relief to construct a two family dwelling on each of the lots where the zoning is limited to a one family dwelling per lot as well as for lot coverage.

Mr. Irene stated there are some outstanding completion waivers not submitted by the Applicant. The Board can elect to waive those items for purposes of completeness only in order to hear the Application. Mr. Bucco cited the Borough of Matawan Code Chapter 34, Section 34-26(a)2 – Structures, Wooded Areas, and Topography stating most of the information was provided. The Application seeks to have the portion to be subdivided and to have those types of things within 200 feet. Mr. Bucco cited the Borough of Matawan Code Chapter 34, Section 34.26(a)5 – Streets, Easements, Watercourses, Rights-of-Way stating the Applicant has provided in the immediate area but the definition expands it out to 500' from the subdivision. The Applicant's engineer has provided sufficient information on the plans in order to make a determination from an engineering standpoint whether or not adjacent properties will adversely be affected. Lastly, Borough of Matawan Code Chapter 34, Section 34-26(b)5 – Elevations and Contours stating the engineer has provided sufficient information on the plans in order to make a determination from an engineering standpoint whether or not adjacent properties within 200' will adversely be affected. Since this is an already fully developed residential area, I do not have an issue from an engineering standpoint if the Board wants to waive these requirements. Mr. Butler requested a motion to waive the outstanding completion items for the purposes of completeness only in order to hear the Application. Mr. Cannon made the motion, seconded by Mr. Ross. Mr. Butler requested a roll call vote. A roll call vote was taken.

Yes: Charles Ross
John McKenna
Rickey Butler
Timothy Moran
Brett Cannon
Raymond Ayling
Kenneth Cassidy

Motion passed.

Mr. Irene marked Richard Heuser, PE, LS, Plot Plan consisting of one sheet dated January 25, 2016 as Exhibit A-1, a Minor Subdivision Plan consisting of two sheets dated March 22, 2016 as Exhibit A-2, and a set of floor plans and elevations consisting of two sheets dated January 12, 2016 prepared by Grammer Designs, LLC as Exhibit A-3.

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Mr. Kalma introduced Allison Coffin, 823 West Park Avenue, Ocean Township, New Jersey. Mr. Irene swore in Ms. Coffin. Ms. Coffin presented her credentials as a NJS Licensed Professional Planner. Ms. Coffin presented Exhibit A-4 Tax Map over-laid with existing density and uses both conforming and non-conforming. Ms. Coffin stated subdivision requires no variance relief and as such there are no issues from a planning perspective in dividing this lot into two properties as both lots will be fully conforming. The Applicant proposes two family dwellings on each plot. The vacant site abuts adjacent single and multi-family properties. Most properties on Block 34 are currently non-conforming. Ms. Coffin informed the Applicant's Plan as use density is slightly higher than existing properties, with square footage consistent to those existing properties as well. Ms. Coffin states site location to transit relates to State's Smart Growth movement. Also, the Plan conforms to standard of zone with no negative impact to open space, and no inconsistency with dwellings. Density is in character with current block. Coverage relief is required to provide parking with negative impact. It is Ms. Coffin's opinion the project's approximate use of site alternate housing is consistent with nearby homes and Smart Growth. Ms. Coffin reviewed lot frontage and width.

Mr. McKenna requested clarification on use v. width/depth variance(s). Mr. Irene cites MLUL wherein a "C" vs "D1" requires five affirmative votes and illustrates the positive criteria, an inherently beneficial use or that the site is particularly suited for the proposed use. The Applicant must also meet the negative criteria where the Application can be granted without substantial detriment to the public good, and without substantial impairment of the intent and purpose of the zone plan.

Discussion focused on the Board's elimination of two family homes, the amount of Borough multifamily homes, neighborhood density, the area's suitability of single family homes, and the area non-conforming use properties.

Mr. Irene opened floor to public comment.

Tom Burke, 16 Clinton Street, Matawan. Mr. Burke questioned the amount of parking proposed. Ms. Coffin answered the Application proposes 8 off-street parking spaces. Mr. Burke questioned the longevity of the water/sewer system in the area. Mr. Irene stated that is a question for an engineer.

Dominick Jiosi, 152 Broad Street, Matawan. Mr. Jiosi questioned parking and traffic. Ms. Coffin stated from a planning perspective, she does not believe there is significant difference between 4 as opposed to 2 or 3 parking spaces. Mr. Jiosi asks the Board to deny the Application.

There were no further questions for the Planner.

Joseph Lombardo, 11 Michele Avenue, Old Bridge. Mr. Irene swore in the Applicant. Mr. Lombardo informed he has built homes on multiple Borough vacant properties, such as, on Ryers

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Lane, and on the corner of Vermont and Freneau, as well as some infrastructure such as part of the Borough sewer system. Mr. Lombardo looks to build homes on vacant properties for families. The vision for this lot is for multigenerational family use.

Mr. Irene clarified for the record Mr. Lombardo is the principal in the Applicant of Lombardo & Co., LLC who is the contractor purchaser of the property.

Mr. McKenna asked Mr. Lombardo of the possibility of amending the Application from 2 two family homes to 3 one family homes. Mr. Lombardo said possible but not his desire and vision. Mr. Butler states a vision concept is good, but is hypothetical, as the homes may turn to rentals.

Mr. Butler opened floor to public comment.

Rob Kee, 152 Broad Street, Matawan. Mr. Irene swore in Mr. Kee. Mr. Kee presented a photo taken on April 29, 2016 of a nearby 3 family home on Lot 5, which Mr. Irene marked as Exhibit ORK-1, and a photo taken on April 29, 2016 of Lots 8 and 9, which Mr. Irene marked as Exhibit ORK-2. The photos depicted reflect the character of surrounding homes. Mr. Kee states the proposed structure does not conform to character of nearby lots. Mr. Kee expressed concerns over traffic, parking and drainage. He is more in favor of two single family homes as the Board approved in 2010.

Kevin Mendes, 165 Broad Street, Matawan. Mr. Irene swore in Mr. Mendes. Mr. Mendes reiterated parking concerns and increased density, questioning the number of parking spots on proposed plans without sacrificing improving the lots.

The Applicant elected to withdraw the current Application, and to resubmit a new Application for 3 one family homes. Mr. Butler requested a motion. Mr. Cannon made the motion, seconded by Mr. Ayling. Mr. Butler requested a roll call vote. A roll call vote was taken.

Yes: Charles Ross
John McKenna
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Motion passed.

Messrs. Altomonte and Urbano rejoined the dais at 7:55 PM.

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*JSM at Matawan – 955 Highway 34 – Block 40, Lot 6.01
(Amended Site Plan and Variance Application)*

Salvatore Alfieri, Esq. appeared on behalf of applicant.

Mr. Irene confirmed the Statute Notice requirements have been met, and the Notice is legally sufficient. Mr. Irene asked if there was any issue with the Notice. There were no comments. Mr. Irene swore in Mr. Bucco. Mr. Alfieri stated the application depicts Broad Street Plaza survey revealed a minor lot line discrepancy where the proposed Broad Street Plaza Professional Building is slightly closer to property line. In addition, approval for a playground area for the proposed day care tenant. Day Care is a permitted use in the mixed use zone.

Mr. Irene marked Amended Preliminary and Final Site Plan prepared by Bradford J. Aller, PE, with EP Design Services, LLC consisting of 25 sheets dated January 27, 2016 as Exhibit A-1. The Board did not receive the plans as the Applicant did not furnish to the Borough of Matawan. Mr. Alfieri handed out reduced copy of one sheet of Exhibit A-1, and copy of a lot consolidation plan. Mr. Irene states the square footage goes from 12.8 feet to 9.4 feet on the revised plan. Mr. Alfieri said physically nothing has changed except the survey lines. Ms. Wynne stated multiple copies; minimum of two, must be submitted to her office to be available for public inspection.

Ron Aulenbach, Edgewood Properties Director of Engineering, 1260 Stelton Road, Piscataway. Mr. Irene swore in Mr. Aulenbach. Mr. Aulenbach had an updated survey performed due to a billboard on the property to determine property ownership by JSM or New Jersey Transit (NJT). The survey error indicates a lot line error along the municipal boundary resulting in an increase in setback. Mr. Alfieri states the previously approved 12.8 foot setback smaller addition modifies existing setback to 9.4 foot setback.

Mr. Alfieri states second component is day care, Lightbridge Academy, children six weeks to five years of age. Mr. Aulenbach related at the time of approvals first floor of the building had 3 steps. A day care tenant cannot have steps. The ceiling height has been raised on the first floor retail to eliminate the steps. There will be no change in the outside elevation. Also, in order to accommodate a new playground area, to be owned, operated and used exclusively by the day care, the former proposed restaurant outdoor dining area, between the building and Broad Street adjacent to the ball field, will be repurposed as the playground. To comply with ADA, a retaining wall will be substituted for fencing. The proposed day care space will be lowered from 10,600 to 10,000 square feet to conform to Borough Code.

As a candidate for Council in the November 2016 General Election, Mr. Cannon recused himself due to his opposition to Broad Street Plaza, and left the dais at 8:15 PM.

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Mr. Alfieri addressed the Board Engineer's April 1, 2016 Report comments:

- Page 3, Items C1 and 2: Requested waivers with no objection by the Board Engineer;
- Item D1 is for the day care with no variance required (accessory use). Though there is an increase in impervious coverage, it falls below the Borough Ordinance;
- Item D3 is the change in the building's width coverage in the amount of 2 feet 8 inches requiring no additional variance;
- Item E – will comply with all comments;
- Item F – will comply with Item 1, Items 2 and 3 – there is a discrepancy on the plans as the 33.6 is the correct number and 43.52 is the correct number;
- Item 4 – will comply;
- Item 5.1 – addresses the front of the building parking because we are now raising the building there is now a retaining wall for a portion in front of these parking stalls. It's an elevated sidewalk to keep up with the raising of the building – that raised wall will be a decorative wall to match the building;
- Item 5.2 – the ADA stalls have been consolidated to the back of the building;
- Item 6 – the day care proposes one outdoor slide and a climbing area (Mr. Aulenbach provided photos of similar playground equipment);
- Item 7 – Day care hours of operation are 6:30 AM to 7:00 PM, Monday through Friday;
- Item 8, 9, 10 and G1 – will comply;
- Item H1 – The operator is proposing plan addition for the Board Engineer approval of synthetic grass material to drain toward Broad Street with the installation of small drain under the material at the lowest point to go down to connect to the manhole;
- Item H2 – will comply with all ADA requirements for the “tot lot”;
- Item H3 – the synthetic grass will be used for the play area itself;
- Items H4, I, J – will comply;
- Item K – there is no security/lighting for the playground as it will not be used after the day care hours of operation but there will be decorative sconce lighting on the outside of the building as part of the original plans;
- Compliance for all remaining items and those items in the original approval will be met.

Mr. Bucco states, including the above, the setback is unchanged and remains within the Borough Ordinance.

Mr. Irene questioned if there were any items with which they will not comply. Mr. Alfieri answered, no.

After discussion, the Board and Applicant agreed to install a 6' high tan solid vinyl fence on top of the, at its highest point, 4' retaining wall.

Mr. Irene opened the floor for public comment. There were no comments.

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Mr. Butler requested a motion to approve the application of JSM at Matawan Amended Site Plan and Variance Application subject to complying with the Board Engineer's Report and all conditions of the original approvals. Mr. McKenna made the motion, seconded by Mr. Ross. Mr. Butler requested a roll call vote. A roll call vote was taken.

Yes: Joseph Altomonte
 Joseph Urbano
 Charles Ross
 John McKenna
 Rickey Butler
 Timothy Moran
 Raymond Ayling
 Kenneth Cassidy

Motion passed.

Marianne Sadell, 15 Sunset Avenue, Matawan. Ms. Sadell addressed the Board's adoption of the Master Plan and the 2015 Train Station Redevelopment Plan Amendment questioning if public hearings were held on the subject, and how notification to residents was addressed. In addition, she asked if the fee paid to T&M Associates included survey of resident comment. Mr. Irene stated the Planner would have to be consulted to answer that question. Ms. Sadell related her research of Master Plan and its inclusion of resident participation in the Plan's development. Mr. Butler stated as one of the Master Plan architects, there were ample published notices of all meetings and public hearings for residential input prior to adoption of the Plan. Ms. Sadell related her discussions with other residents who also were not aware of the public hearings. Ms. Sadell also related other municipality forms of notice to residents. It is Ms. Sadell's contention the Board did not satisfactorily notify residents. Mr. Butler informs the Master Plan is a living document which can be changed and modified. Ms. Sadell understands and asks the Board to enhance its notice to residents in the future. She expressed her dissatisfaction with the Plan's vision of the Train Station Redevelopment Plan. Mr. Cannon stated though he is sure notice was provided, he agreed with Ms. Sadell's comments on enhanced communication, and, as Mayor, Mr. Altomonte anticipates on sending a survey to residents on the Train Station Redevelopment area.

Gladys Martin, 21 Edgemere Drive, Matawan. Ms. Martin questioned if Broad Street Plaza contains 10% affordable housing, and, if so, should any unit not rented become government subsidized? Mr. Bucco stated Broad Street Plaza does have a COAH obligation, but the answer to her question is, no. They only have an obligation to provide 10% regardless of the remaining units. She then asked how many years tax abatement was allotted to Broad Street Plaza. Messrs. Urbano and Altomonte informed there is no abatement. Ms. Martin questioned why this was not a voter referendum. Mr. Irene informed the application was made to the Board under the MLUL. Mr. Irene confirmed the Statute Notice requirements were met, and the Notice(s) were legally

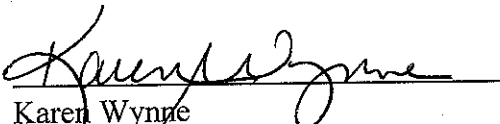
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sufficient. In addition, the Board's agenda is posted on the Borough's website. The Board related the large audience at those public hearings. Mr. Irene stated the Board does not have the authority to require an applicant to do more other than to meet MLUL notice requirements. He cited recent case law where a municipality, in addition to MLUL notice requirements, decided the applicant also must post a sign on the property. The court struck it down stating the municipality has no authority necessitating something outside of the State statute. Mr. Irene said voter referendum did not encompass this application. Mr. Irene also informed of the right to appeal the Board's decision(s).

Adjournment

Chairman Butler requested a motion to adjourn. Mr. Cannon made the motion, seconded by Mr. Ross. The Board agreed. Motion passed.

The meeting was adjourned at 8:55 PM.


Karen Wynne
Acting Recording Secretary