

Unified Planning/Zoning Board of Adjustments Meeting
August 3, 2009

The meeting was called to order by Bob Montfort, vice chairman, and the pledge of allegiance was recited.

Roll call was taken with the following members present: Mr. Buccellato, Mr. Dolan, Mr. Montfort, Mr. Shea, Mr. Gallego and Mr. McKenna. The remainder of the members were absent.

The first application was Dudas Builders 66 Main St Block 6, Lot 4

Mr. Buccellato made a motion to carry the application to the September 2, 2009 meeting with notice and stipulation of time granted to the board and Mr. McKenna second. The board voted with all members in favor.

The second application was Omnipoint 123 Main St Block 9, Lot 22

Mr. McKenna made a motion to carry the application to the October 5, 2009 meeting with notice and stipulation of time granted to the board and Mr. Montfort second. The board voted with all members in favor.

The third application was Mr. and Mrs. Fitzpatrick 311 Main St Block 49, Lot 13

The notices were approved. A neighbor from 315 Main St came forward and wanted to verify when the application would be heard and said they received notice. Mr. Buccellato made a motion to carry the application to the September 2, 2009 meeting with no re-notice and stipulation of time granted to the board and Mr. McKenna second. The board voted with all members in favor.

The fourth application was Mr. and Mrs. Carelli 183 Main St Block 35, Lot 7

Mr. Buccellato made a motion to have the application withdrawn and Mr. McKenna second. The board voted with all members in favor.

The fifth application was Matawan Emerald Investment 138 Jackson St Block 24, Lot 11

This application was carried from the July 6, 2009 meeting. The board engineer, Mr. Venezia, was sworn in. Ms. Voyt is the applicant's attorney. The revised site plan and board engineer's letter were marked for exhibit. Mr. Heuser, the applicant's engineer, was previously sworn in. Mr. Heuser reviewed the 5 variances and 4 design waivers needed; which included setbacks, height of the building, and parking. He said the trash and recyclables were to be enclosed and placed on the north side. They would have a 4' high vinyl fence and concrete pad.

Board questions: Mr. Montfort asked why the rear yard setbacks were different and the applicant's engineer said it was due to the overhang. He asked if the soffits are a part of that and the board engineer said they may or may not be included. The board can note the difference so there is no confusion.

Mr. Montfort had some questions on the height of the building and some of the measurements and the applicant's engineer said they can be adjusted on the plan. Mr. Irene said it could also be noted on the resolution if the board approves the application. Mr. Buccellato asked since the rear yard slopes, is it measured from the front or the back and the board engineer said it was alright and in line with the ordinance because the ordinance refers to the front of the house.

Mr. Montfort brought up where it was stated that the maximum lot coverage was 11% and the applicant's engineer said that was the building coverage only and he would amend the plan. Mr. Montfort said it would go from 43 to 49%. Mr. Montfort asked about the interior staircase that was added along the side wall and if there was enough room there. Mr. Hynes, the property owner, was previously sworn in. He stated yes that they have done the calculations and it will be on the construction plans. Mr. Montfort asked about the front and side elevation and if the dormers went in or out and the attorney marked for exhibit a drawing of the existing and proposed facade of the property. The applicant has complied with the board engineer's requests and had the trash enclosed and the lights off at 9 pm on a timer.

Mr. Gallego asked how accessible is the dumpster due to the handicap parking right there and the board engineer said they adjusted the size and it seems adequate now. The attorney then questioned the owner on the trash and recyclables and the owner said they sent a letter of the quantities of both and also will put the garbage cans on a pad up off the ground and the municipality will pick it up. The board engineer added that the area was adequate now so if there was a problem in the future with the trash, it would be an enforcement issue for the town.

The attorney asked the applicant if the staircase changed the height of the building and the owner said no.

Mr. Montfort asked about the buffer and is the fence the applicant's or the neighbor's and the owner said it was his fence.

Mr. Montfort questioned the parking spaces and reviewed where they were and how many.

Mr. Gallego asked if there were any safety issues and the board engineer said if there were any the construction office would handle that.

Mr. Buccellato asked if they would confer with the historic sites commission to coordinate colors of the building and the attorney stated only on a volunteer basis.

Public questions: none

Mr. Dolan made a motion to approve the application with the new site plan, variances and design waivers and Mr. Shea second. The board voted with all members in favor.

The sixth application was Mr. and Mrs. Clare 155 Broad St Block 33, Lot 4.01

Mr. Soriano is the applicant's attorney. Mr. Clare was previously sworn in. Mr. Irene questioned a letter that the applicant wrote to his congressman alleging corruption in the Borough and explained to Mr. Soriano that he thought his client knew he was coming back before the board due to outdated surveys. He asked Mr. Soriano if there was a problem with any member of the board that they should be recused or if his client felt the board could not hear his application in good faith. Mr. Soriano stated that his client had an argument over the shrubs with the neighbor and then replaced damaged shrubs. He received the paperwork from the neighbor over the complaint and was investigating it. The mayor visited both parties trying to come to a resolution. His client did not know it was not resolved until the neighbor filed a judgment against him. He thought when the shrubs were replaced it was over.

Mr. Soriano conferred with his client and said no, that his client was just speaking out of frustration with the system and the length of time his application is taking. He thought there was a stop order on the work and he hasn't been living at the house. He has since found out from the mayor there is no stop order but he can't live there without a CO and cannot get that until his application is approved. He then had a problem with the notices and then a survey problem and he is just frustrated. His letter was just that, a venting of frustration, but he is ready to continue tonight with all the members of the board remaining. Mr. Gallego recused himself from the application.

Mr. Irene noted that there is no D variance so there are enough remaining board members to hear the application. The new survey was marked for exhibit and the cover letter as well.

Mr. Soriano reviewed the previous questions the board had: the pavers are not cemented so they do not count as lot coverage, the driveway is not over the neighbor's property line, the sides from the building to the property line were recalculated and are fine, the lot coverage is more than 30 %, and the building was built as per the plan according to the construction official.

Mr. Clare then explained the staircase to the crawlspace and there is no basement, there are just 4 steps and it was included in the lot coverage.

Mr. Montfort asked if the lot coverage is in question with the driveway pavers and the attorney stated if it was, they would remove it. Mr. McKenna suggested including a little extra leeway for the applicant so he could keep them because they are nice. The applicant agreed he would like to keep them. Mr. Irene said they could grant the lot coverage as requested and the applicant can take it up with the construction office if it is a problem. Mr. McKenna said they should just include it in the number and be done with it so he has no more problem with it.

Public questions: none

Mr. Dolan made a motion to approve the application with all the new answers from the applicant and Mr. Shea second. The board voted with all members in favor and Mr. Buccellato abstaining.

Mr. Hayes, a neighbor, came late and requested a copy of the new survey and will take any issues he has with the construction official and/ or Freehold court.

Resolutions:

ESK Builders Resolution: Mr. McKenna made a motion to approve the fencing and the sign changes as per the revised site plan and Mr. Montfort second. The following roll call vote was taken: Mr. Buccellato-yes, Mr. Shea-yes, Mr. Dolan-yes, Mr. Gallego-yes, Mr. McKenna-yes and Mr. Montfort-yes.

Barr Resolution: Mr. McKenna made a motion to approve the resolution and Mr. Shea second. The following roll call vote was taken: Mr. Buccellato-yes, Mr. Shea-yes, Mr. Dolan-yes, Mr. Gallego-yes, Mr. McKenna-yes and Mr. Montfort-yes.

Other business:

Mr. Irene told the board he sent a letter to respond to the 226 Main Street lawsuit letter.

Mr. Hersog was an approved application for a sub-division and he did nothing with it so he would like a permit extension under the Permit Extension Act of 2008 which covers applications from 1/07 through 7/10. It has only been 6 months so that should not be an issue. Mr. McKenna made a motion to have Mr. Irene send a letter to the applicant granting the extension and finding out what the applicant's plans are and Mr. Gallego second. The board voted with all members in favor.

Mr. Montfort reminded the board of the annual dinner on September 16, 2009.

Mr. Buccellato made a motion to adjourn and Mr. Gallego second. The board voted with all members in favor. The meeting was adjourned at 9:30 pm.

Respectfully submitted,

Diane Cannon
Board Recording Secretary