

Unified Planning/Zoning Board of Adjustments Meeting
January 4, 2010

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

Oaths of office were taken by Mr. Irene for new and returning members before the meeting started.

Roll call was taken with the following members, including new members, present: Mr. Buccellato, Mr. Cassidy, Mr. Mendes, Mr. Dolan, Mr. Montfort, Mr. Shea, Mr. McKenna, and Ms. Malanga.

Absent were: Mr. Gallego and Mr. Saporito.

The meeting started with Election of Officers:

Mr. Buccellato nominated Mr. Cassidy as chairman and Mr. Shea second. The board voted with all members in favor and Mr. Cassidy abstaining.

Mr. Buccellato nominated Mr. McKenna vice chairman and Mr. Shea second. The board voted with all members in favor and Mr. McKenna abstained.

Mr. Buccellato nominated Mr. Montfort as Secretary and Mr. McKenna second. The board voted with all members in favor and Mr. Montfort abstaining.

Mr. Buccellato nominated Mr. Irene as Board Attorney and Mr. Montfort second. The board voted with all members in favor.

Mr. Buccellato nominated Mr. Venezia as Board Engineer and Mr. Mendes second. The board voted with all members in favor.

Mr. Buccellato nominated Ms. Cannon as Board Recording Secretary and Mr. Montfort second. The board voted with all members in favor.

Resolutions

Atrium Resolution: Mr. Montfort questioned the ownership of the oxygen tanks and Mr. Irene stated that he received a letter from their attorney stating they were changing the size of the tanks and may have to come before the board again. He said they would get approval from the state and from the fire official. They also may not use the same company to service the tanks.

Mr. Buccellato said then why would the board vote on the resolution and Mr. Irene explained because the board acted the resolution was drawn. He stated the resolution states that it is subject to fire official approval so it is up to the fire official if it proceeds. Mr. Cassidy made note that in the future the fire official would like to know if the board is approving such applications that involve him.

Mr. Montfort reminded the board that they still have to meet all the codes.

Mr. Dolan said he was sure the fire official just wants to comment on these site plans before they go to the board.

Mr. Cassidy said the board engineer will take care of that and in the future he will tell him 15 days before these applications come to the board.

Mr. Montfort said he would leave the resolution the way it is stating that as per the approval of the fire official.

Mr. Montfort made a motion and Mr. Cassidy second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Dolan-yes, Mr. Montfort-yes, Mr. McKenna-yes and Ms. Malanga-yes.

Murphy Resolution: Mr. Irene stated that he drew up the resolution because the board voted on one item and he deferred the other items. Mr. Lane is questioning that because if he wants to appeal, his timeline to do that would start once the board votes on a part of the application even though the applicant is coming back before the board on the other items. Mr. Lane would like to speak to the board.

The board decided to hear from Mr. Lane.

Mr. Lane told the board that he felt the adoption of this resolution would muddy the waters for his appeal and if all members are continuing on the board he is requesting they postpone the vote. He also said the deck is reducing the setback more than the resolution states.

Mr. Irene reminded Mr. Lane that he cannot argue the resolution. If the board sees an error, he will fix it but it is not up for discussion at this point. He draws the resolutions based on the way the board votes. Mr. Irene suggested to the board that since most members are remaining and parts of this application are coming up again in February, that perhaps the board will carry it until then.

Mr. Cassidy made a motion to carry this resolution to the February meeting and Mr. Mendes second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Dolan-yes, Mr. Montfort-yes, Mr. McKenna-no, Mr. Mendes-abstain, Mr. Buccellato-abstain, Ms. Malanga-abstain, and Mr. Shea-abstain.

Other Business:

The board reviewed the meeting dates for 2010 and changed the July date and added the January 2011 date to the resolution. Mr. Montfort made a motion to approve the dates with those changes and Mr. Mendes second. The board voted with all members in favor.

The first application was: Ms. Milazzo 197 Main St Block 35, Lot 14

Ms. Milazzo was sworn in. Ms. Vogt is the applicant's attorney. She has an Art studio and residence in a DPD zone. She needs D variance relief for a combined use as the proposed use is not acceptable. Ms. Vogt will argue this point.

Ms. Vogt questioned the applicant about the former owner being a photographer. She is an art teacher and painter. She displays her work and sells it in different locations. She will also teach classes in her studio. Ms. Vogt reviewed the ordinance that she would argue against.

Mr. Irene said that multiple uses were not allowed to be combined in one location or therefore if it was all uses it would be none of the uses. He said home offices differ as they are usually limited to a certain number of footage used. Ms. Vogt went forward with her argument of the interpretation of the ordinance and the use of a profession in the location.

The board discussed the points after the argument and Mr. McKenna made a motion to request D variance relief for this applicant and Mr. Montfort second. The board voted with 5 members in favor and 2 against.

The application is now for D variance so the Class 1 & 3 members stepped down.

The site plan and photos were marked for exhibit and the applicant reviewed all the photos. She went over her hours of operation of the business, number of students, parking and lighting.

Mr. Kee, the applicant's engineer, then reviewed the setbacks, parking, trash pickup, lighting and signage which does conform. He listed all variances and waivers.

Mr. McKenna made a motion to approve the application with D variance for the studio and home, bulk variances and site plan and Mr. Shea second. The board voted with all 5 members in favor.

Mr. Mendes made a motion to adjourn and Mr. Dolan second. The board voted with all members in favor.

The meeting was adjourned at 9:30 PM

Respectfully submitted,

Diane Cannon
Board Recording Secretary