

**Minutes of the
Unified Planning/Zoning Board of Adjustment
June 4, 2012
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 June 4, 2012. The meeting was called to order at 7:00 PM by Chairman Kenneth Cassidy presiding. Chairman Cassidy called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in the *Asbury Park Press* on January 26, 2011, by sending notice to *The Independent*, and by posting.

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

Chairman Cassidy requested a roll call.

On roll call the following members responded present:

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort
Joseph Saporito
Yes: Joseph Urciuoli

Also present were Michael A. Irene, Jr., Esq., Planning Zoning Board Attorney and Philip A. Haderer, Planning Zoning Board Engineer.

Approval of Minutes

Chairman Cassidy requested a motion to approve the minutes of May 7, 2012. Mr. Butler made the motion, seconded by Mr. Urciuoli. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Abstain: Rochelle Malanga

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Yes: John McKenna
Abstain: Robert Montfort
Abstain: Joseph Urciuoli

Motion passed.

Applicants

Applicants

1. Route 34 Rezoning – John Maczuga, T&M Associates

John Maczuga, of T & M Associates was sworn in to continue the discussion of rezoning lots 6 and 7 for a “mixed use development” to promote transit oriented patrons. Initially, the area under consideration for rezoning included Walgreen and was bordered by Broad Street, the Matawan Municipal Community Center, and the Henry Hudson Trail. Walgreens has been removed from the property under consideration because it would require the business to make several substantial architectural and building changes to comply with the ordinance, explained Mr. Maczuga.

The proposed ordinance outlines specific regulations for any developer who wants to build on the land, including building height, and the percentage of buildings to be used for commercial and for residential, and the amount of parking that will be provided.

The board discussed whether or not to have a mixed use development in order to rezone it. However, as they do have to put in place an ordinance, they do have the opportunity to implement building requirements.

At the April 2, 2012 meeting, the board requested that Mr. Maczuga edit the purpose section of the ordinance to emphasize the desire to attract transit oriented development; he removed the requirement for affordable housing; he created a comprehensive list of the types of permitted commercial businesses; he increased the permitted height of any building to five stories; he added requirements for storage space per residential unit; he added bike rack requirements; and he added several architectural and design requirements.

Members of the board continue to question how much of the property would be dedicated to commercial use and how much would be dedicated to residential use.

According to Maczuga, the property is currently labeled as a highway improvement zone, which is for commercial use. If the ordinance were approved as is, it could still be entirely commercial but could not be entirely residential.

Mr. Montfort questioned whether there should be residential properties at all. Mr. Maczuga cautioned that it would be best not to exclude commercial property on that site, but at the same time explained that residential property is far more profitable than commercial property.

Mr. Irene stated that there should also be discussion of what particular commercial businesses would be allowed.

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The manner in which the ordinance is currently crafted, a free-standing commercial building is permitted as long as it incorporates into the development by architecture and amenities, Maczuga explained.

However, board member Robert Montfort expressed concern that a developer would take advantage of that.

"I would prefer somebody coming in and requesting it as a specific variance, rather than to allow it and you end up with one apartment building and four or five other buildings and call it mixed use," Mr. Montfort said.

Mr. Cassidy pointed out that in some cases, a free-standing building may be better for both the business owner and the residents.

Mr. Urcioui asked if they must demand minimal residential requirements.

In additional there was discussion as to whether there would be parking underneath the buildings.

Also suggestions were made that there should be non-residential on the 1st floor with 20% commercial and 80% parking.

The board ultimately agreed to allow free-standing buildings, but have requested that Maczuga create a minimum and maximum amount of space that can be allocated to residential and commercial property.

The board will vote on whether to approve the ordinance at the July 2, 2012 meeting.

2. McEvoy Investments, LLC – 12 Orchard Street – Block 34, Lot 21 (*Variance*)

Mr. Irene swore in Mr. Philip Haderer and Mr. Paul N. Mirabelli, Esq. to discuss the revised plot plans for 12 Orchard Street. Mr. Richard Carl Heuser, a professional Engineer, whose expertise was accepted by the Board, presented the revised plans. This is an application for several bulk variances to raze an existing single family home and to construct a new one. The existing lot is deficient in area and the front yard setbacks for the existing house (corner lot – two front yards) do not meet ordinances. The existing set back on Orchid is actually “0” feet. The new house will meet front yard setback requirements on Center Street but will still need a variance for Orchid Street which will only be 9.1 feet when 25 feet are required. In addition the applicant will need a variance for lot coverage which will be 39.2% where 30% permitted. There was no ability to obtain more land to make lot conform and the new house will actual reduce current deficiencies. Mr. Heuser states that the benefits would outweigh the detriments.

Chairman Cassidy requested a motion to approve. Mr. Montfort made the motion, to approve the application with variances for lot size, lot coverage and front yard setback

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on Orchard Street, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Urciuoli

The motion was approved.

3. James & Susan Murphy – 13 Lakeside Drive – Block 115, Lot 30 (*Variance*)

James & Susan Murphy originally came before the board in 2008 to request a variance. After many years of litigation and revisions, the Murphy's are submitting an application to amend the original and revised plans.

The Board accepted the amended and revised plans. Mr. Buccellato recused himself.

Mr. Haderer was sworn in by Mr. Irene Esq. who marked Mr. William Peck's grading plans in as exhibit A-1.

Mr. Richard Schwartz Esq. of Matawan was sworn in. He stated that the amended plans would include: the rear deck, the retaining wall and the slope grading planting of evergreens facing their property and would have no lights on the top of their fence as well as removing the enclosure under the deck. Mr. Michael Lane and Ms Gasiorowski, attorney for Linda Giering, of 15 Lakeside Drive were sworn in and agreed to eliminate specific fencing height limitations and also agreed to the retaining wall changes.

Chairman Cassidy requested a motion to approve. Mr. Montfort made a motion to accept the revised site plan with the removal of specific Condition 4 from the previously approved resolution, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Recused: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez

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Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Urciuoli

The motion was approved.

4. Monmouth County Sheriff- 76-78 Wilson Avenue (Celltower) – Block 119, Lots 1 & 62
(Capital Review)

Mr. Irene stated that the applicants were not ready and would like to carry the application until August 6, 2012

Chairman Cassidy requested a motion to approve. Mr. Montfort made the motion, seconded by Mr. McKenna. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Urciuoli

The motion was approved.

5. Paul Andrews – 5 Wilson Avenue – Block 121, Lot 15

Paul and Amanda Andrews, 5 Wilson Avenue were sworn in, they are requesting the Board to grant a certificate of non-conformity for a pool permit.

There permit was denied by Mr. John Quinn who stated that the house is located in a “special business zone”

Mr. Andrews explained that this has always been a single family home and that no business has been run from the premises in the 45 years or so that his grandfather owned the house previously to his purchasing of it from his grandfather.

After purchasing the house, they were given residential permits for an addition which included a deck. When they applied for the pool permit, they were informed by Mr. Quinn that the deck was put on without a permit and that sometime in the 1970’s, the property

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was changed to "Special Business District" zoning. Therefore they require a certificate of non-conformity in order to acquire the necessary pool permit.

Mr. Andrews submitted a pool grading plan prepared by Land Surveyor, Martin G. Miller III. In addition to a motion to approve the application for a certificate of non-conformity, Mr. Michael Irene requested a motion for a waiver for a site plan approval should the Building Department deem it necessary.

Chairman Cassidy requested a motion to approve. Mr. Buccellato made the motion, seconded by Mr. Lopez. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

On the approval of the application for a certificate of non-conformity and waiver of site plan approval:

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort
Yes: Joseph Urciuoli

The applicant submitted a draft resolution for the Board's consideration in order to expedite the building of his proposed pool. The Board reviewed the draft resolution.

Chairman Cassidy requested a motion to approve the resolution. Mr. McKenna made the motion, seconded by Mr. Urciuoli. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

On the motion to approve the resolution:

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Yes: Rochelle Malanga
Yes: John McKenna
Yes: Robert Montfort

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Joseph Saporito
Yes: Joseph Urciuoli
Both motions were approved.

Resolutions to be Memorialized:

1. Max Bezrodny – 46 Ravine Drive – Block 82, Lot 13.01 (*Variance*)

Chairman Cassidy requested a motion to approve the resolution. Mr. McKenna made the motion, seconded by Mr. Urciuoli. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Yes: Andy Lopez
Abstain: Rochelle Malanga
Yes: John McKenna
Abstain: Robert Montfort
Abstain: Joseph Urciuoli

Motion passed.

2. TMobile– 58 Main Street (Celltower) – Block 6, Lot 7 (*Capital Review*)

Chairman Cassidy requested a motion to approve the resolution. Mr. Buccellato made the motion, seconded by Mr. Butler. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Recuse: Paul Buccellato
Yes: Rickey Butler
Yes: Kenneth Cassidy
Yes: Angelo Gallego, Jr.
Recuse: Andy Lopez
Abstain: Rochelle Malanga
Yes: John McKenna
Abstain: Robert Montfort
Yes: Joseph Urciuoli

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Motion passed.

3. Emlerich, LLC – 126 Main Street – Block 24, Lots 3, 4, 6, 6.07, 7-9 (*Variance*)

Chairman Cassidy requested a motion to approve the resolution. Mr. McKenna made the motion, seconded by Mr. Urciuoli. Chairman Cassidy requested a roll call vote. A roll call vote was taken.

Yes:	Paul Buccellato
Yes:	Rickey Butler
Yes:	Kenneth Cassidy
Yes:	Angelo Gallego, Jr.
Yes:	Andy Lopez
Abstain:	Rochelle Malanga
Yes:	John McKenna
Abstain:	Robert Montfort
Yes:	Joseph Urciuoli

Motion passed.

Adjournment

Chairman Cassidy requested a motion to adjourn. Mr. Buccellato made the motion, seconded by Mr. Butler.

The board voted with all members in favor and the meeting was adjourned at 9:05 PM.

Respectfully submitted
Nancy Jo Palermo
Recording Secretary