

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Of October 15, 2009**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Special meeting held on October 15, 2009.

Chairman Todd Newman called the Special Meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Diner Mr. Karas, Mr. Charipper, Benny Salerno  
Mr. Frankel, Mr. Sacchinelli, Mr. Blecher,  
Mr. Meer & Mr. Newman

Absent: Ms. Spindel, Ms. Taylor

Also in attendance were William Soukas, Board Attorney; Karen Kocsis, Court Reporter; Ann Peck, Assistant Zoning Officer and Cathy Bozza, Zoning Board Secretary.

Mr. Newman announces the opening of:

1. Application #2009-038, **18-35 River Road, LLC.**

Mr. Newman explains that they were originally scheduled to present a preliminary and final site plan for approval. There have been some developments in which he will allow the applicant to discuss which are leaving us tonight with only the Signage presentation.

Fees have been paid and there is proof of service.

Mr. Stuart Liebman (Attorney) on behalf of 18-35 River Road, LLC opens the meeting with the explanation of why they are here tonight before this Board.

The prior application was made in September 7, 2008 and at that time we requested an approval for a sub-division and a use variance which provides for a Residential component in the rear portion of the property and a Commercial/Retail use in the front portion of the lot which is at the intersection of Maple & River Road.

Mr. Liebman explains in further detail the previous application which had been approved.

Gives an update on what has happened since the time we have been here.  
Speaks to the current regulations and how they are consistent with all of them.

Mr. Newman questions to what extent has the plan been discussed with the Special Master appointed by Judge Harris.

Mr. Liebman states he has submitted a copy of the plan to the Special Master and had spoken with him but he has not done a thorough review nor is he obligated to do a thorough review because of the Nature of the relief, there are no restrictions on the municipalities with the developing applications nor on zoning amendments. The Special Master sees no issues and I'm sure that he will speak to the Municipal Attorneys.

Mr. Liebman continues.....

Mr. Liebman explains why they will not attempt to get into the Site Plan details tonight because a report was just received from the Board Engineer tonight and a couple of days ago I received a report from the Traffic Engineer. They have requested some additional information and studies from us. We would like to review them and come back and address all issues but what we would like to proceed tonight with is relatively straightforward and that is the signs that are proposed. Perhaps at a later date we can schedule or set aside special dates for the Site Plan to be heard.

Mr. Newman & Mr. Liebman discuss options regarding approval for signage and agree that all information be put on record tonight and get one approval when the Site Plan is presented.

Discussion continues.

Mr. Liebman begins his signage presentation.....

Mr. Newman apologizes to Mr. Liebman but would suggest that we hear the Fire Departments concerns and suggestions first.

Mr. Newman swears in Mr. Eric Reamy. Battalion Chief of the Fair Lawn Fire Department.

Mr. Reamy begins by stating that they looked at the Plans and liked them. It looks like a good idea and will replace an eyesore that has been a concern of the Fire Department for many years.

Mr. Reamy refers to the Site Plan and reassures Mr. Liebman that he will lay out the concerns, understanding that there is still a lot of work to be done so he is here to point out the concerns with this particular version.....we know none of this is set in stone yet but just so that you're aware of it and can review it.

Refers to Site Plan (revised August 12, 2009) A-1

Mr. Reamy explains the difficulties with this proposal....

1. Access to the whole facility off River Road, prime concern is the Ladder Truck. It is 47ft. long apparatus. Making the right hand turn from River into the parking lot would be very difficult. Please consider widening of the driveway into the facility and offers other suggestions.
2. Landscape circle at the end of the parking lot will have to be eliminated. Truck would never be able to make that turn. You cannot have any obstruction in the Cul-da-Sac.
3. Hydrants and water mains/ we would ask for three additional hydrants minimum. Points to areas in which he would suggest putting them. Speaks to additional main lines so they wouldn't have to draw off one.
4. Main concern. Elevation of the proposed building. In the middle of this building you have almost a complete 4 story building...with no access to the rear building for the ladder truck at all, that will be all ground ladder work, but getting them to this building will be very difficult. Pedestrian walkway is suggested. Level ground is suggested. Walkthrough and access to the front and the rear is also suggested.
- 5.

Mr. Reamy completes his testimony and will submit them in a written report.

Mr. Newman swears in the Board Professionals.

Mark Kataryniak, Medina Consultants, Board Traffic Engineer  
Peter Van Den Kooy, Birdsall Engineer, Board Planner  
Paul Azzolina, Azzolina & Feury Engineers, Board Engineer

Mr. Paul Azzolina(Board Engineer) explains some of his concerns, one critical issue in which I have spoken to the Fire Chief regarding the access to the buildings. The Residential Site Improvement standard would govern for the rear property in that it is a Residential/Mixed use development.

Mr. Azzolina reads from a section in the RSIS.....Item #4E, Pg.12 of his report.

Code Review is a crucial aspect.

Determination needs to be made by the Board based on presentation by the applicant as far as whether this property is accessed via a parking lot, noting that there are access points, all of which appear to be within a parking lot.

Mr. Mark Kataryniak(Traffic Engineer) makes reference in his report to concerns of overall circulation for service trucks, refuge trucks and emergency trucks. I also share the concerns in terms of driveway widths and access ability to egress and ingress to various buildings. We ask for specific information from the Fire Department in respect to the size and length of the ladder truck.

Mr. Reamy states he will include that in the report.

Mr. Peter Van Den Kooy, Board Planner wanted to mention along the back of the residential structure, the buffer (inaudible)??

Mr. Karas asks if the height of the Building will not create a problem from the Fire Department standpoint.

Mr. Reamy states that it will not.

Mr. Liebman reassures the Chairman and the Board that they will reach out to the Fire Department and review all their concerns.

Mr. Liebman calls his first witness to testify,

Mr. Newman swears in Mr. Alan Weitzman, Principal at Studio 5 Partnership in Glenrock and resides in Fair Lawn.

Mr. Newman accepts Mr. Weitzman as an expert witness.

Mr. Liebman begins his questioning of Mr. Weitzman asking him if he is familiar with the site and familiar with the zoning ordinances as they pertain to the property and as they pertain to signage. You have prepared some plans, charts (seven in count) pertaining to this proposal..

Mr. Weitzman states he is familiar with the site and the zoning ordinances and refers to the plans(charts) and that an eighth one will be introduced tonight.

Mr. Weitzman begins his testimony and refers to drawing A-01/A-02(Architectual Site Plan) I only put this up so we can reference it so when we talk about the locations, it does help to visualize....

Lot A-Building 1,2,& 3 which are retail building, one story. Owner/Developer are in negotiations with a Pharmacy as we speak and the designs that we will be showing you, both footprint and elevations is theirs. This would be Lot 1.

Mr. Weitzman continues.....

Mr. Newman questions Mr. Weitzman, regarding the lease. If there is no lease signed with this national retail pharmacy just yet, who has very specific architectural needs, any testimony that we will hear about signs is specific to this retailer. If the retailer changes, the signs change.

Mr. Weitzman discusses this with Mr. Newman.

Mr. Newman mentions what we are hearing is testimony on Lot 1. Will we be hearing testimony on Lots 2&3?

Mr. Liebman interjects and states that the plan itself identifies it as Building 2&3, the signage that you see is typical signage for what we might put on the building, and that it will be conforming.

Going forward, if in the future new tenants start moving in and they want a specific sign that doesn't conform with the ordinance, a separate application will have to be made for a variance for that elevation and the specific signage.

Discussion continues.....

Mr. Weitzman continues with his testimony and states they are proposing a ground sign. We need to present some type of identity both for Fair Lawn and this project on the corner. Because of the unique nature of the geometry on this site, 3 very different approaches will be discussed.

Testimony continues.....

Drawing A3-Exhibit, A-02-Concept plan for the development at 18-35 River Rd. Building #1, National Prototype for the building façade and contains far more signage than permitted.

Mr. Weitzman explains.....

We need a variance for the number of signs and the sign area.  
Canopy sign, Building Façade, Hours of Operations sign, Drive up sign, etc....

Mr. Newman speaks to signage, and what has been done in the past regarding sign variances. Very specific signage had been presented, conceptual pictures, what it says, size of the letters, colors.....is it possible to give us more than what you are presenting?

Mr. Liebman explains that the Planner is here tonight and will give you exactly what you are looking for.

Discussion continues....

Mr. Karas agrees with the signage that faces River Road and also the left side elevation which faces Maple. Refers to Pg.1, Exhibit A-2-The facade that faces Maple Ave....  
Entitled left side elevation-Why is all this signage needed on the left side of the Building?

Mr. Weitzman explains the reasoning behind this.....

Discussion continues.....

Mr. Weitzman explains the signage according to what would fit and what would be appropriate for this site. Mr. Weitzman asks if they would be kind enough to wait for Mr. Price to address the specifics....

Mr. Weitzman begins his testimony on Exhibit A-4/A-03, the elevations of Buildings 2&3 and the grounds sign on the corner of Maple & River.

Explains the elevations of the hypothetical drawings that the developer is showing to potential tenants of a configuration of the site.....they could be built exactly as drawn or as I stated, when dealing with various retail merchants they have National prototypes or regional prototypes that they would like to see implemented for branding and identity.

Mr. Newman states that in reviewing the proposed drawing & design of the River Side Plaza designation leads him to believe that these buildings 1, 2&3 look like they go together and will be designed in a similar vein, similar facades...

Mr. Weitzman states yes, that is the intent but depending on the merchant, that could change....

Mr. Weitzman continues to testify that the developer and the designers will try to preserve what we are presenting here tonight.

We believe that Building #3 will be a single tenant building, Building #2 a multi-tenant building and we are proposing signage that will be consistent with signage for a multi tenant, percentage wise.

Discussion continues.....

Mr. Weitzman continues and refers to the ground sign on the corner in the I-2 zone. 15ft from the property lines, 16ft. in height and not more than 40sf in signage. The three sided nature of this site, there is traffic coming in all three directions and for clarity, we have a three sided sign...it is not something that was addressed in the Ordinance because it wasn't contemplated.

Discussion.....

Parking is brought up....but put aside until the site plan is brought before the Board.

.Mr. Kataryiak(Traffic Engineer) clarifies that they are one story buildings.

Mr. Azzolina (Board Engineer) states in respect to additional signage proposed on the sides of buildings 2&3 that would be permitted if it is recognized as a corner lot, but if

this is recognized to be an interior lot, then most likely additional variances would be required. Although it has the appearance of a corner lot, it is bounded by another property along Maple Avenue.

Discussion on who makes that determination.....

Mr. Weitzman has completed his testimony.

Mr. Newman opens the witness to the public with any questions. Seeing none, Mr. Newman closes this portion.

Mr. Liebman calls his next witness.

Mr. Newman swears in: Mr. Richard M. Preiss, of Phillips, Preiss Associates,  
In Redbank, N.J. (Professional Planner)

Mr. Newman accepts him as an expert witness.

Mr. Liebman begins his questioning.....

Mr. Preiss is familiar with the site plan of the applicant. He is also familiar with the Municipal Zoning Regulations as they pertain to signage in this Borough.

Mr. Preiss begins with the explanation of what the signs will actually provide.

Front elevation in Building #1- there will be 4 signs.

1. The name of the pharmacy. 32ft.9” long and 4’ 1” high.
2. Two smaller signs to the right-11’ 1.5”high will have the word “photo”
3. Extreme end, where it says signage 2x, they are proposed 8’5”L 3’2”H  
“Drive thru Pharmacy on that.
4. The 4<sup>th</sup> sign is a very small sign, 2.35sf adjacent to the front entrance with  
The store hours, name of manager and on site pharmacist.

Discussion.....

Left side elevation is discussed. 4 signs are proposed.

Mr. Preiss goes into detail.....

Rear elevation and right side elevation are also described by Mr. Preiss.

There will be two drive thru lanes and speaks to the Canopies....

Speaks of the signage that is in the public right of way, signage that is in the rear which is not visible in the right of way, is solely directional, to allow people who are using the

drive thru portion where the entrance is, that it is a full service drive thru pharmacy and also directional to show the exit.

Discussion....

Mr. Newman has concerns with the right side elevation that has nothing on it. Someone traveling North on River Road, looking for this pharmacy is not going to know where the pharmacy is until they are passing it.

Mr. Preiss takes the suggestion of Mr. Newman and will address his concern and take another look at it.

Mr. Kataryniak(Board Traffic Engineer) offers his suggestions... the number of the signs on the canopy, when you look at the visibility of the canopy from River Road and from Maple Avenue as well as the proximity of the canopy to the residential use, I think if there is anyplace where we could look to reduce the signage, particularly illuminated signs on the canopy, maybe this is the place, maybe we can supplement it with some directional on the ground signage....

Mr. Kataryniak also comments that he has asked the applicant to show directional signage and traffic control signage on the site plan. Offers suggestions.....

Discussion....

Mr. Preiss agrees with Mr. Kataryniak on some of the things he has said and we will In turn, take your concerns back to the prospective tenants and see if we can work with them.

Discussion....

Mr. Preiss speaks to the sign variances, total eleven (11) that are required.

1. A-4, free standing sign-Ground mounted sign is a C variance-hardship criterion because of the location. It will say Riverside Plaza, completely complies with its location, height, the width and the area of the signage.  
It is a 3 sided sign because of the traffic coming in the four directions.  
Refers to the drawing.....explains in detail.
2. 10 other for the signage on building one (1)  
Variances-One is for size, and the other is for Number of signs

Mr. Preiss explains in detail how the benefits outweigh the detriments....

Mr. Preiss clarifies that the proposed tenant will work closely with what is permitted in order to provide the signage and not create the variance but the variances that are being Required are necessary from their point of view in order to have a successful franchise.

Speaks to this more in detail....

Discussion.....

Drive thru is a very important part of this pharmacy....

Mr. Preiss believes that it will be a successful shopping center being a gateway into Fair Lawn. I think that the advantage in terms of permitting the signs and as far as a traffic point of view and an aesthetic point of view outweigh any of the detriments. Yes, there are more signs on a building than permitted but there are particular circumstances that I've indicated.

In summary, Mr. Preiss believes that the free standing sign should be granted based on the hardship of the unique circumstances of the shape and location of the property and I believe that the 10 variances we are requesting can be justified on the basis of the benefits of the signage outweigh the detriments. It does not add to the visual clutter of this area.

Mr. Newman asks if any of the Board Members have questions.

Mr. Karas refers to A-03-A-02-questions if they will be box signs. Size of letters regarding box signs is discussed.

Mr. Preiss does not have the details as of yet.

Discussion continues.....

Mr. Peter Van Den Kooy (Board Planner) refers to the small amount of frontage on Maple Ave, & River Road. It does have a corner frontage and refers to Ordinance Section 125-8, semantics of odd lots versus corner lots.....(inaudible) frontage requirements based on the semantics, he would suggest using it as a guide for more support on the geometrics....inaudible....

Mr. Preiss states there is an improvement that is proposed that will extend the frontage as it exists presently by virtue of the ingress from Maple Avenue, from that ingress point all the way to River Road is where the frontage will be in the proposed development condition which doesn't exist today.

Mr. Newman explains to Mr. Preiss that until those improvements are made, we will have to deal with River Road & Maple Avenue as they exist.

Mr. Preiss agrees.

Discussion...

Line of sight is discussed from River Road & Maple Avenue regarding signage size, lettering, etc....

Mr. Newman asks if there are any questions from the general public for Mr. Preiss. Seeing none,

Mr. Newman closes this portion.

Mr. Liebman (Attorney) summarizes and notes that whatever questions and information is needed, they will address the concerns and get the information ready for the next meeting.

Mr. Newman wants to clarify the concerns and information needed for the record.

1. To address all the Professionals concerns & their reports.
2. The current and future concerns of the Fire Department.
3. Any future concerns regarding the Fire Marshall regarding Fire Code Compliance, specifically the Fire Lane requirements.
4. Research and address any possible need for a Wetlands Permit.
5. Amendments to Signage regarding the illuminated letters rather than illuminated boxes.
6. What is the line of sight time standard being used in the calculations and the size of those letters and if they would consider reducing the size of the letters if necessary?
7. Revisit the canopy signage and consider the need for signage on the right side elevation.

Meeting dates are discussed.....

**Application is carried to a Special Meeting of November 30, 2009 & December 9, 2009.**

**Bills:** Karen Koscis in the amount of \$275.00

Mr. Salerno makes motion to approve and Mr. Blecher seconded the motion

**VOTE:** All Present -AYE

**Adjourn:**

Mr. Salerno made a motion to adjourn this meeting and Mr. Sacchinelli seconded the motion.

TIME: 10 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk