

WORK SESSION/REGULAR MEETING OF SEPTEMBER 12, 2022

The meeting of the Fair Lawn Planning Board on Monday, September 12, 2022 was called to order at 7:00 p.m. by Vice-Chairman Joseph Mele in the Council chambers of the Fair Lawn Municipal Building.

The notice of the Open Public Meetings Law was read stating that the newspapers were notified and a notice posted on the first floor bulletin board of the Fair Lawn Municipal Building.

Roll Call

Present: Oliver Wilhelm, Jorge Reyes, Anna Aleynick, David Mangual, Shana Cohen, Larry Metzger, Joseph Mele, Amy Hummerstone Late: Chairman Ludzki, Councilmember Gail Rottenstrich, Grant King

Also present: Board Attorney Gregg Paster, Board Secretary Cathryn Hochkeppel, Board Engineer Lyra Knust

Approval of minutes

Upon motion by Larry Metzger and a second by Anna Aleynick, the minutes of the meeting of August 8, 2022 were unanimously approved. AYES: Jorge Reyes, Anna Aleynick, David Mangual, Shana Cohen, Larry Metzger, Oliver Wilhelm, Joseph Mele, Abstain: Amy Hummerstone

Approval of escrow bills

Upon motion by Larry Metzger and a second by Shana Cohen, the escrow bills were unanimously approved. AYES: Jorge Reyes, Anna Aleynick, David Mangual, Shana Cohen, Larry Metzger, Oliver Wilhelm, Joseph Mele, Amy Hummerstone

Public Comment

Vice Chairman Mele opened the matter to the public and no public wished to be heard.

Statutory Review of Ordinance No. 2629-2022

Ms. Hochkeppel explained that currently the Borough allows drive-through for banks and pharmacies but not for restaurants. Joseph Mele noted that one of the conditions is that there is a 100 foot distance between residences and the drive through. He added that there does not seem to be a distance for the placement of the loudspeaker except a vague reference that it shall not be permitted within portions of the property that abut a residential zone. Amy Hummerstone stated that since the pandemic is substantially over, is it necessary to allow this use. Gregg Paster commented that since the borough allows a drive-through for a bank or pharmacy, it might be open for a challenge by not allowing it for restaurants. Oliver Wilhelm stated that his concern is on River Road and the queue. Joseph Mele stated that each application that comes before the Board should be looked at carefully. Mr. Wilhelm also noted that the conditional use is only permitted in certain areas. Joseph Mele opened the matter to the public.

Pamela Coles, 13-34 George Street, commented that this ordinance does not provide for any green space or a bench to sit down. She stated that the ordinance allows for only five cars and she wondered who would be counting the cars. She stated that she drives a corridor to church several times a week. She explained that she goes through several towns and there is not one drive-through along that corridor. She does not think that drive-through restaurants should be permitted on two lane roads. She said the drive-through belongs on a larger thoroughfare or a highway. Oliver Wilhelm agreed that it would be difficult on River Road.

Vice Chairman Mele noted that the ordinance requires that the length of the drive-through shall be able to permit the minimum stacking of five vehicles. A bail out lane is also required. He noted that the ordinance does contemplate the need to queue at least five vehicles and the ability to leave the queue. Vice Chairman Mele also noted that there were no lighting requirements. Gregg Paster commented that vehicle size could be addressed. Larry Metzger was concerned about delivery trucks. Vice Chairman Mele stated that would be addressed when the site plan application came before the Board. Anna Aleynick asked if there would be an opportunity to obtain a traffic study. She thought it should be requested and Joseph Mele stated it should be included in the ordinance.

Stuart Liebman stated that drive-through restaurants have been prohibited in Fair Lawn for many years and there has been substantial litigation. Mr. Liebman stated that the Board's counsel rightfully cautioned the Board against prohibiting the use. He noted that there are Supreme Court directives that favor allowing that use.

Councilmember Gail Rottenstrich and Grant King arrived.

Conceptual - 1400 Third Street; Block 5729, Lot 2

Bruce Rosenberg appeared on behalf of the applicant, Pacer Partners. He noted that this was a concept application for the Clariant site. He stated that the property was rezoned to allow for warehouse use. Mr. Rosenberg added that he had the engineer and architect present to explain the plans. He indicated that they had met with the architectural committee of the EDC who asked if they could increase the front yard buffer by five additional feet. The site has several constraints including the steep slope by the river.

Franz Laki, engineer, briefly explained the lay-out. He stated that the property is located at the corner of Third Street and Fair Lawn Avenue. They plan on dividing the property in two lots. One of the lots will be a remediation area which will remain undeveloped until remediation is completed. The application is for two warehouses, the larger on the southern end and a smaller one on the northern end. He explained that each facility has its own dedicated loading area and parking adequate for the size of the warehouses. The roadway connecting the two warehouses has been removed. The southern warehouse will be accessed from a right turn into the property from Fair Lawn Avenue and a right turn out. The smaller warehouse will be accessed from River Road onto Range Road. Cars and trucks will use Range Road. For the larger warehouse all trucks will be directed to Fair Lawn Avenue. There will be no truck traffic on Third Street. There will be an entrance on Third Street for passenger vehicles. They are proposing a significant landscape buffer to minimize the impact of the building. They are cognizant of the overall surroundings. The loading docks are facing the River so the building will be able to buffer sound from the trucks. The trucks will be screened as much as possible. He noted the steep slope along the river which will largely remain untouched. Building B is set down about 25 feet from Building A so should be shielded from the residential property.

Brian DeBarbieri, architect, explained the two buildings. He stated that for building A, the loading docks are facing the river. Both buildings will be constructed of noncombustible materials. The height will be conforming at 50 feet. He explained that their intent for building A was to design a warehouse building that was state-of-the-art in functionality and safety but that was also visually pleasing for the public and for the residents in the area. The main goal was to be respectful of the adjacent houses. They are incorporating a modular aesthetic along Third Street. They will break up the façade using a variety of materials. All the roof equipment will be set back far from the perimeter so they would not be visible from the street.

Larry Metzger stated that the façade looks nice. He also questioned whether there would be offices and Mr. DeBarbieri stated that there would be a corner office in each building. Anna Aleynick was concerned about traffic and the circulation. Mr. Rosenberg stated that they will have a traffic study and a traffic expert that will address concerns. Councilmember Rottenstrich stated that she liked the aesthetics. Her concern will be about traffic. She also stated that she hoped that they would take down as few trees as possible. She noted that the tree canopy is important. Amy Hummerstone asked if it didn't make sense to connect the two buildings. Mr. DeBarbieri stated that the topography for building B is about 25 feet lower than building A. She added that she would also like to see building A set back a bit farther. Shana Cohen stated her concern was all the trucks coming through town and the size of the trucks. Mr. Rosenberg stated that they will address that with their traffic issue. Jorge Reyes stated he was also concerned about the trucks. David Mangual asked about the interior street and the engineer stated that there are engineering challenges due to the steep slope but they are leaning toward removing it. Oliver Wilhelm asked if the new bridge will support the trucks and was told it will. He asked if it would be feasible to have the trucks come off Route 20 and enter the site. He also suggested pushing building A slightly back. Vice Chairman Mele stated that there were some groups looking for a river walk along the river and some type of pedestrian walkway. He suggested that they create some relief on the building facing Third Street. Mr. DeBarbieri stated that the different materials will have different thicknesses. Mr. Mele stated that the testimony should include the type of warehouse.

Jamie L. Placek, attorney from DeCotiis law firm that represents the borough stated that this site was originally in the settlement agreement for affordable housing. They have reached an agreement with Fair Share Housing how the developer will provide off-site affordable housing. The developer will sign an agreement and if site plan approval is granted, a condition of approval will be the providing of off-site affordable housing.

Vice Chairman Mele thanked everyone for the presentation. Ms. Hochkeppel noted that Amy Hummerstone was recusing herself from the application for Guru Realty. Vice Chairman Mele recessed the meeting at 8 p.m. for ten minutes. The meeting was reconvened at 8:10 with all members present as initially indicated with the exception of Amy Hummerstone.

Guru Realty; 27-16 Broadway; Lot 3210.01, Lot 1

Bruce Rosenberg appeared on behalf of the applicant. He explained that this was the site of Dietch's florist which closed some time ago. He introduced the architect, Jacob Solomon.

Chairman Ludzki arrived.

Jacob Solomon was sworn in and qualified as an expert architect. The set of plans and the color rendering last revised August 31, 2022 was marked as Exhibit A-1. Mr. Solomon explained the existing conditions. They are not planning on any changes to the building other than a new façade to give it a more modern look. There are currently two parking spaces and a dilapidated garage. They are adding spaces. Six spaces are required and they are providing seven spaces including an accessible space that does not currently exist. They are relocating the access. They will be striping five spaces along the AutoZone side. They will be providing a new fence. There will be two spaces on the north side of the property including the accessible space. He explained the floor plan modifying the existing retail space and basement. They will minimize the stucco area and will provide additional materials. The canopy overhang will be modified. They are proposing to put a garden and shade trees in the small alley. The former florist had planters and displays along the sidewalk. The new florist will also provide those with seasonal flowers. Mr. Solomon explained that they could not provide shade trees in the parking lot as the area is too small. Other than the shade trees, the applicant can comply with the Board Engineer's letter. There will be minimal soil removed. The site will remain relatively flat. They will provide curbing around the parking lot. They will comply with the engineer's comments relative to the lights. This is an upgrade to the existing building.

Mr. Rosenberg pointed out that this is a very straightforward application. They are improving the building, taking a parking lot with two noncompliant spaces and providing seven conforming spaces. Lyra Knust asked where the white vinyl fence would be located and was told it would be placed on the west side of the property by the AutoZone lot. She asked if the signage would be compliant and was told it would be. Ms. Knust was also concerned about the lighting and Mr. DeBarbieri said they would increase the wattage on the wall pack. She also noted that the applicant would be requesting a waiver of the 60% transparent elements along 28th Street.

Shana Cohen thanked the applicant for improving the property. Councilmember Rottenstrich asked if a tree or more greenery could be added. She noted that it was a vast improvement. Mr. Solomon stated that there was a lawn area where they could provide a tree. Mr. Mele asked about street trees along 28th Street. Mr. Solomon stated that they would work with the engineer. Councilmember Rottenstrich suggested two trees flanking the driveway. Chairman Ludzki stated he liked the design and was glad they could comply with additional trees. Grant King stated that they should be careful with the placement of the tree so it does not interfere with sight triangles. Larry Metzger asked about the lighting. Mr. Solomon stated there will be two

wall packs and they will avoid spillage on to the neighboring property. Oliver Wilhelm stated he liked the idea of flanking the trees on the driveway.

Vice Chairman Mele opened the matter to the public.

Puneet Khosla, who is the chief operating officer for the medical offices at 28-02 Broadway asked about the parking requirements. He stated that in the notice he received, it said that 12 parking spaces were required and the testimony was that six are required. Mr. Rosenberg stated that when the architect did the parking requirements, he included the basement which is not required by the local code. The number required was substantially reduced.

Since no other public wished to be heard, Vice Chairman Mele closed the time for public comments.

Larry Metzger stated he was concerned about the lighting particularly during the holiday season when it gets darker earlier. There is also a greater demand during the holiday season and the florist might stay open later.

Gregg Paster listed several conditions including that the existing window condition is going to stay and requires a waiver, building signage will comply, two street trees on 28th Street and a tree in the northwest corner and lighting to be reviewed by the Board Engineer.

Bruce Rosenberg stated that this a good addition to the retail space on Broadway and will improve an eyesore. Chairman Ludzki appreciated the effort to incorporate the Board's comments in the plan. Shana Cohen moved that the application be approved and Jorge Reyes seconded the motion. AYES: Oliver Wilhelm, Jorge Reyes, Anna Aleynick, David Mangual, Shana Cohen, Larry Metzger, Joseph Mele, Councilmember Gail Rottenstrich, Grant King

Master Plan Subcommittee

Joseph Mele said they had a meeting two weeks ago. They discussed affordable housing and were looking at sites that could possibly provide for affordable housing. One site they looked at was Banta Place in the I-2 zone and also at the corner of Wagaraw and Maple. They were looking at possibly creating an overlay zone for affordable housing which also is responsive to some of the comments received from the public. Mr. Mele thought that the area near the train station and Broadway by Banta Place could be a transitional zone. Grant King stated it is always wise to put affordable housing near services including the train stations. They also had a recommendation

relative to the floor area ratio. There are floor area ratios based upon lot size. As the lot area increases, the floor area ratio should decrease. They want to correct the mistake. The floor area ratio for lots that are 7500 or greater, it currently states that it is .4 and it should be .35. They also discussed 125-24 B-1, B-2 and B-3 zones, the intent is that residential uses are not permitted on the first floor. The current Code is confusing. The suggestion is to remove the sentence "All uses permitted in any residential zone, except one-family, two-family and multiple-family dwellings." Joseph Mele suggested that the second sentence be reworded to read "multi-family units above a permitted nonresidential use is permitted in the B-1, B-2 and B-3 zones."

Chairman Ludzki asked about incorporating changes when the master plan is reviewed. Ms. Hochkeppel stated that most of the changes come from recommendations already existing in the master plan. Ms. Hochkeppel indicated a new master plan will be required in 2026. Gregg Paster indicated that between the planner, Cathy and the professionals, they will incorporate the changes in the next master plan.

Redevelopment – Plaza Road and Fair Lawn Avenue

Oliver Wilhelm indicated that the plan has been completed and the Borough Attorney has reviewed it. Ms. Hochkeppel indicated that she would send the plan to the members.

Nabisco site

Chairman Ludzki stated that he a brief conversation relative to the Nabisco property redevelopment. There were many good ideas. They are looking to be good neighbors but Chairman Ludzki stated some of the concerns the Board members might have.

Closed Session Resolution

Upon motion by Ari Ludzki and a second by Larry Metzger, it was unanimously agreed to go into closed session about potential litigation.

The meeting reconvened at 9:35 p.m. with the following members present: Oliver Wilhelm, Jorge Reyes, Anna Aleynick, David Mangual, Shana Cohen, Larry Metzger, Joseph Mele, Chairman Ludzki, Councilmember Gail Rottenstrich and Grant King

Adjournment

Upon motion by Grant King and a second by Oliver Wilhelm, the meeting was unanimously adjourned at 9:40 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Secretary of the Planning Board