

## **WORK SESSION/REGULAR MEETING OF OCTOBER 3, 2022**

The meeting of the Fair Lawn Planning Board on Monday, October 3, 2022 was called to order at 7:00 p.m. by Chairman Ari Ludzki 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: Jorge Reyes, Anna Aleynick, Larry Metzger, Joseph Mele, Amy Hummerstone, Grant King, Chairman Ludzki Absent: Councilmember Gail Rottenstrich, Oliver Wilhelm, David Mangual, Shana Cohen

Also present: Attorney Marc Leibman, Board Secretary Cathryn Hochkeppel

### **Conceptual application – Ahavat Achim Orthodox Congregation; 18-25 Saddle River Road**

David H. Kline appeared on behalf of the applicant. He explained that the congregation wanted to install a playground on the property.

Rabbi Shestact stated that they have a growing community of young families. Within the radius of the synagogue, there are few playgrounds. There is interest in having a place to play at the synagogue. They are a small congregation of just under 100 families. It is a small playground. They relocated three parking spaces. The busiest day is on the Sabbath which is Saturday. They are an orthodox congregation so they do not drive on Saturday. Rabbi Shestact stated that the parking lot is almost never filled. They were hoping to get an administrative amendment to allow them to put up the playground without a full site plan application.

Chairman Ludzki stated that he does not think anyone on the Board would object to a playground on their site. Chairman Ludzki asked if they had adequate spaces. Mr. Kline explained that they had received a parking variance. Mr. Kline stated that they might require a rear yard setback variance.

Amy Hummerstone questioned the parking configuration. She also asked about the trees. Rabbi Shestact stated that there is room in the front to plant trees. She also questioned the height of the fence. Rabbi Shestact stated that the reason for the five or six foot high fence is to reduce the compelling nature of the playground since there will be a locked fence. The surface will be rubber. Chairman Ludzki stated that Councilmember Rottenstrich also had concerns about the riparian rights since it is close to Jordan Brook. Approval must be granted by the DEP and can't be waived by the Planning Board or any authority of the Borough. There should be confirmation that nothing will be disturbed within 24 feet of the riverbank. Councilmember Rottenstrich also would like to see a more up to date survey as the current one is from 1990. She also suggested native trees within the Riparian zone.

Joseph Mele suggested that an updated survey will demonstrate the size of the parking spaces. Mr. Kline stated his client was hopeful that they would not have to go through the full site plan process so that they could proceed quickly with the playground. Joseph Mele stated he would also like to see the approving resolution that approved the initial site plan. He asked if they were proposing any regrading. Mr. Mele suggested a barrier by the parking spaces. Rabbi Shestact stated he was hoping for administrative approval. Joseph Mele asked about the space behind the building and was told it was a parking space. Anna Aleynick asked about the total spaces required. David Kline said the total number is 117. The parking variance was granted due to the religious nature of the congregation. Anna Aleynick asked if they experienced parking problems. Rabbi Shestact stated that there are approximately three times during the year during high holy days that there are parking issues. The recycling center has given them permission to use their parking on the high holy days. The only other time the parking lot fills up is when there is an event at the synagogue which is not often. Rabbi Shestact stated that special events take place approximately three times a year. Ms. Aleynick suggested another gate as a back-up entrance. Grant King suggested striping. Rabbi Shestact stated that they block the parking lot on Saturdays for security purposes. Grant King stated that he was concerned about flooding. Larry Metzger asked about the wording on the plan and what was being removed.

Chairman Ludzki stated that the idea of a playground is a good one. We cannot waive a full application considering the setback variance. He is also concerned with setting a precedent going forward. Marc Leibman agreed with the Chairman's opinion and stated that it is unavoidable due to the apparent variance relief needed. MLUL does not permit the waiving of a variance without a formal hearing. The Board seems amenable to the application but it cannot be granted at this time.

Chairman Ludzki asked Ms. Hochkeppel as to the schedule and she informed him that they were very busy with several applications. Chairman Ludzki informed the applicant that he does not think this will be a complicated application and the Board will do everything possible to expedite the application.

#### **Memorializing resolution – Guru Realty 27-16 Broadway; Block 3201.01, Lot 1**

Ms. Hochkeppel briefly explained the resolution. Upon motion by Joseph Mele and a second by Jorge Reyes, the resolution was unanimously adopted. AYES: Jorge Reyes, Anna Aleynick, Larry Metzger, Joseph Mele, Grant King

#### **Approval of minutes**

Upon motion by Joseph Mele and a second by Anna Aleynick, the minutes of the meeting of September 12, 2022 were unanimously approved. AYES: Jorge Reyes, Anna Aleynick, Shana Cohen, Larry Metzger, Grant King, Joseph Mele, Abstain: Amy Hummerstone

#### **Approval of escrow bills**

Upon motion by Grant King and a second by Joseph Mele, the escrow bills were unanimously approved. AYES: : Jorge Reyes, Anna Aleynick, Larry Metzger, Joseph Mele, Amy Hummerstone, Grant King, Chairman Ludzki

## **Public Comment**

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

## **Review of draft ordinance regarding Drive-through restaurants**

Ms. Hochkeppel explained that the Board had made many suggestions which CME have incorporated into the ordinance. The Council introduced this ordinance twice. It is being sent to the Board before they introduce it again. Joseph Mele pointed out that a traffic impact study and lighting plan were added. He stated that they also changed the loudspeaker from not to abut the residences but not to face the residences. Grant King pointed out that when Krispy Crème opened, a police officer was there for several weeks. He wondered if they could require the applicant to pay for traffic control and whether that should be inserted in the ordinance. Mr. Leibman said it is an enforcement issue. He explained a few situations where although the traffic expert said there would be no back up onto the street, there definitely was a problem. He opined that he did not believe it should be part of the ordinance as the police will assess the situation and respond to it. Chairman Ludzki pointed out that sometimes it is a novelty thing. Mr. Leibman stated that it is good that there is an annual license requirement. Chairman Ludzki explained that if an application comes before us and there is testimony that there will be no back-up onto the street, if it continually happens, it will be up to the owner to resolve the problem. If they cannot, the license will be revoked. Joseph Mele asked by not allowing this use, are they exposing the town to liability. Mr. Leibman did not think it would. Grant King stated that he understands that this promotes business but it also produces car trips. The community has a very active school age children with many on bikes, etc. He also suggested that the license fee be set high so those funds could be used for safety measures. He added the trips for drive through restaurants are much higher than a restaurant without a drive through. He stated that when he was growing up, his neighborhood was immediately impacted by a drive through restaurant and they could not play in the streets anymore. Grant King stated this type of use encourages short trips in the local community. Chairman Ludzki stated that Grant's comments are valid and should be conveyed to the Council. Larry Metzger stated he doesn't know of any drive through restaurants in the center of neighboring towns. Chairman Ludzki stated that it appears that some members appear to be against this use. He also noted that some members were in favor of the form of the ordinance. Grant King noted that this type of use will add conflicts between pedestrians and vehicles. Joseph Mele outlined the addresses where this use would be permitted. Ms. Hochkeppel stated that what she was hearing from the board was a variety of opinions. Chairman Ludzki concurred and stated he wanted the Council to be aware of all opinions. Anna Aleynick stated that the average number of trips per 1,000 square feet for a fast food restaurant with a drive through

restaurant averages 53 per hour. Grant King commented that apparently a drive through is needed to be a successful restaurant but he weighed it against the safety of children and pedestrians.

### **Redevelopment Plan – Plaza Road and Fair Lawn Avenue**

Amy Hummerstone explained some of the changes made to the plan. She questioned the height of the vertical structures as she did not think it would be between four and six feet. Chairman Ludzki asked if the subcommittee felt the Board was in a position to make a recommendation to Council. Grant King stated that they had made many adjustments to the plan in several steps, and he felt that it was completed and that it should go forward. Chairman Ludzki stated that the subcommittee appears comfortable with the design at this point. Amy Hummerstone concurred but stated they had asked for a three dimensional rendering which the developer stated he would supply after the plan is adopted. Chairman Ludzki stated there will be a thorough public hearing once the application comes before the Board. Ms. Hochkeppel stated that she had a note from Oliver Wilhelm stated he was sorry he could not attend tonight's meeting but specifically wanted to thank Amy, Grant and Shana for all their hard work and input.

Stuart Liebman thanked the Board and the subcommittee members for their time and said they were ready to move forward. Amy Hummerstone added that it was helpful to work with the developer. Chairman Ludzki stated that he wanted to specifically thank the subcommittee members. They all gave up a great deal of time and perhaps did not even realize how much it would entail when first appointed. He also specifically thanked Oliver Wilhelm who chaired the committee and the sacrifices made by everyone involved. Joseph Mele asked about the process and Ms. Hochkeppel explained that it is the Council that will have the hearing, not this board as the Council adopts the plan by ordinance. The site plan application will come before this Board.

### **Master Plan Subcommittee**

Vice Chairman Mele stated that they did have a meeting between last Board meeting and this one. There is hope to get the ordinance updated as we proceed with our recommendations. Amy Hummerstone explained the recommendations the subcommittee are making come from suggestions in the master plan. Chairman Ludzki questioned that if there was a list of items relative to changes to the master plan. Joseph Mele stated that his notes and records were extensive. Amy Hummerstone said that Vice Chairman's notes includes actions to be taken and other details. Ms. Hochkeppel stated that this Board is very proactive in implementing the recommendations of the master plan. Joseph Mele stated that that there is a new chapter that is

going to be required. Ms. Hochkeppel stated the new chapter is climate change. The Board is required to adopt the master plan by 2026. She suggested they might want to start in 2024 or 2025. Joseph Mele explained that last time, the subcommittee met with Boswell Engineering and Taylor design to have a few brainstorming sessions. They reached out to other borough groups. Chairman Ludzki stated that the master plan subcommittee will continue to do what it is doing. He suggested that in 2023, they get other people involved to review different sections and Vice Chairman Mele agreed. He asked that it appear on the agenda for the January meeting.

Grant King stated that free technical assistance is available through different entities for master plan and can help in other areas. There are grants available. Different entities will also offer access to scholars and planners. He suggested that they look into what is available.

### **Design Guidelines**

Amy Hummerstone stated that they had another meeting and are progressing.

### **Special meeting**

Ms. Hochkeppel stated that they have been asked to have a special meeting on November 21<sup>st</sup>. Chairman Ludzki suggested that Ms. Hochkeppel send out an email.

### **Adjournment**

Upon motion by Joseph Mele and a second by Grant King, the meeting was unanimously adjourned at 8:30 p.m.

Respectfully submitted,

Cathryn Hochkeppel  
Secretary of the Planning Board