ZONING BOARD OF ADJUSTMENT NOVEMBER 9, 2015

MINUTES

Meeting was advertised according to NJ State Sunshine Law.

Roll call: attending: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Lankry, Mr. Ingber

Also attending: Jerry Dasti, Board Attorney

Dave Magno, Engineer/Planner

Jackie Wahler, Court Reporter

Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of October 19, 2015 – Mr. Gonzalez

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez,

Mr. Halberstam

**Appeal # 3929 – John Lombardi**, 203 River Avenue, Block 768 Lot 1, HD-6 zone. To

construct a steel building used for an automotive facility.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – October 14, 2015**

Applicant is requesting minor site plan and use variance to construct a metal accessory building on the existing property which houses an automotive sales center. The proposed metal building will have a footprint of 40 x 60 feet and a height of approximately 17 feet. The site plan indicates that the proposed building will be used for vehicle maintenance and storage.

Ed Liston, attorney for applicant. Mr. Lombardi’s business has been at that location since 1945. He would like to put up an accessory building to store cars and also he can have his mechanics work on them. He has no intention of renting the building out. He needs it for his business.

Tim Lurie, Engineer/Planner with DW Smith, Assoc. sworn.

Board accepted credentials

Mr. Lurie – Property located in the HD – 6 zone and located on the corner of Route 9 and John Street. The lot area of the site is 49,747.5 sq. feet where the zone requirement is 10,000. Lot coverage is 27.4%. Proposing a 40 x 60 accessory building in the rear of the lot. There is still adequate circulation around the building. Parking spaces for the zone is 53 and they have more than 57 parking spaces for the site. This is a pre-existing non-conforming site because automobile dealerships are not permitted in the zone. The purpose of the expansion is to allow service of vehicles inside the building. Mr. Lombardi does not intend to rent any portion of that building out. Granting of this variance is appropriate and promotes the purpose of zoning. Does not change the character of the surrounding area. The proposed structure generates no impact on traffic.

Mr. Halberstam – this application was previously before the board and denied.

Mr. Liston – he took it to court and it was remanded back for another hearing since there was only 6 members voting and the vote was 4 to 2 and Mr. Lombardi thought that he had been approved. He just wants to get some of the vehicles out of the weather and worked on in the building. There will not be lifts in the building. The building will be enclosed with 2 overhead doors. It will be one floor and there will be no partitions.

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John Lombardi, sworn. He will be refurbishing cars and storing them in the building. Cars are being stored and minor work is being done outside. He needs a facility to maintain and refurbish his cars. The mechanic shop is a different tenant. He will not have access to this area. He still owns the dealership and sells cars. He still has an office there and a dealers license. He needs the facility for his cars. His people having been working out in the cold refurbishing his cars.

He will have lifts in the building. The building will be 18 feet high and is need for ventilation.

The existing building is about 9,500 square feet and he is using about 30% now.

Mr. Liston - This is an expansion of a non-conforming use. This will be taken the existing uses inside the building instead of outside. The use is not expanding just the building on site is expanding. There will only be operable cars on the site. There will be no junk cars on site. This building will not be rented out separately.

Open to Public. Closed to Public.

Motion to approve subject that this building will not be rented out – Mr. Gelley

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3922 – 1500 Prospect Street, LLC**, Block 490 Lot 43, M-1 zone. Use variance for 10

duplexes.

**From: Terry Vogt, Engineer/Planner – August 18, 2105**

A use variance Appeal #3768 was granted for the construction of a townhouse development and amenities in 2011. The applicant is seeking amended use and preliminary and final major subdivision approval and necessary variances to construct duplexes on the property. The duplex lots are based on the 8,500 square foot lot minimum and 40% maximum building coverage allowed per 2014 UDO amendments to Section 18-2014 (duplexes) for zones in which townhouses are a permitted conditional use. Since townhouses are not a permitted, nor conditional permitted use in the M-1 zone, relief is also necessary for the use of the 8,500 square foot duplex lot standard and the 40% lot coverage standard.

Sam Brown, attorney for applicant.

Ed Liston represented Ari Follman as an objector to this application . They reached an agreement

Will build a shul that will build accommodate 80 people from the development, the shul will be built by the 20th Certificate of Occupancy, they will build a tot lot around the property and will spend a minimum of $25,000 on equipment for the playground.

Mr. Halberstam – we do not have the new plan.

Mr. Brown – the original approval was for townhouses.

Brian Flannery, sworn. The applicant had a meeting with the neighbors last week and they did not have time to revise the plans. It is not a substantial change.

Mr. Brown – the change which accommodates the place of worship is not substantial. The plans show 10 duplex buildings. The plans are being changed to accommodate the neighbors concerns. The shul and the tot lot are not shown on the plans.

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Mr. Flannery - the plan that was submitted (A-2) shows the basin area and 10 duplexes. This applicant met with the neighbors and they agreed to make 4 lots narrower, condense the basin area by putting in a retaining wall. And any action would be subject to the engineer looking at it.

The lots would be 3 ½ feet narrower and that freed up the area for a shul and a playground in the northerly area.

Mr. Halberstam – this is a major change and we do not have plans.

Mr. Flannery – they did not have the agreement with the neighbors in time to do revised plans.

Mr. Gelley – am uncomfortable with this plan without seeing the shul and the playground.

Mr. Brown asked the board to just vote on the use for duplexes. They would come back with the layout including the shul and the playground.

Mr. Gonzalez – will not approve plans that he has not seen.

A-2 colored plan

A-3 plan

Mr. Flannery - The smallest units on the east side they stayed the same. The larger units on the west side got smaller but all are over 9,000 square feet.

Mr. Halberstam polled the board if they wanted to hear the application.

Board members agreed to carry the application.

Mr. Brown – will renotice.

Motion to carry until December 7th – Mr. Ribiat

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3930 – Bais Yaakov High School** – James Street, Block 321 Lot 1, Block 339 Lot 1,

Block 340 Lot 1, Block 341 Lot 1, R-12 zone. To subdivide 4 lots into 25

duplex lots. Use variance.

**From: Terry Vogt, Engineer/Planner – October 22, 2015**

The applicant received Planning Board approval (SD #1671) for 23 single family homes. The applicant would now like to construct 25 duplex units (50 residences/excluding basements) vs 23 single family units approved in 2009. The proposed duplex lots were designed in compliance with R-10B zoning requirements for two-family housing units.

Abraham Penzer, attorney for applicant.

William Stevens, PDS, sworn.

A-1

A-2 elevation

A-3 aerial photograph

A-4 cover sheet

A-5 sheet 2

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Mr. Stevens – the subject property was previously part of the master plan amendment that was approved by the municipality. It was originally zoned R-12 and the Master Plan recommended that this area be rezoned to R-10B. The municipality adopted a resolution to adopt the zoning to R-10B. The ordinance was invalid because the municipality did not have proper notice. The judge overturned the ordinance. It is now no longer a permitted use.

Mr. Penzer - One of the requirements to the Master Plan was to bring sewer to the area. His client has done that.

Mr. Stevens – the applicant has gone through the planning stages and submitted to the Planning Board when the R-10B zone was in effect.

Mr. Penzer – he did an approval for 70 units before the Planning Board in the R-10B zone and it is in effect.

Mr. Stevens - One of the requirements of this ordinance was that duplexes could not be developed without bringing in water and sewer. They now do have municipal water and sewer

in the neighborhood and now can provide services to this development. There is a duplex project across the street in theM-1 zone. This is a good use on this property. This property is wetlands to the north. This parcel is about 7 ½ acres.

Mr. Gonzalez – these lots should be 12,000 square foot lots.

Mr. Stevens seeking use variance to construct a project based on the master plan. The ordinance was challenged and overturned or we would be by the Planning Board. The Zoning Board can grant this variance. These lots are 10,000 square foot lots. The population in this town will exceed 230,000 people.

Mr. Penzer - There will be basements and there is basements in each unit.

Mr. Stevens – They will be utilizing municipal trash and recycling collection services and would be some type of enclose in the front of the units and screened. They will put some sort of area for the buses for drop-off and pick up area.

Mr. Penzer - The lot coverage will be 30%. There will be 8 parking spaces for each duplex.

Mr. Halberstam – the plans show a finished applicant.

Mr. Stevens – they will not be finishing the attics. The cul-de-sacs are RSIS compliance. The width of the road is 30 feet, the applicant agreed to a 32 foot cartway.

Open to Public.

Robert Cohen, 11 Sharon Court, affirmed. These duplexes will be affordable. In favor of this application.

Benjamin Holland, affirmed, 33 Kingsfield. In favor of this application. This will be affordable housing. This will be a traditional neighborhood and much needed in the community.

Gerri Ballwanz, 208 Governors Road, sworn. The lots are too small. This is a high dense development. This is re-zoning through variance. This project is too dense. The lots should be on 12,000 square foot properties. Also concerned about the trees. Don’t think that there are any other R-10B zone.

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Closed to Public.

Mr. Halberstam – asking to change it to the 10B zone because the Master Plan recommended that this be a 10B zone.

Mr. Stevens – there is no substantial detriment to the Master Plan. Asking for a use variance too permit a duplex development in the R-12 zone in conformance with the R-10B standards.

Mr. Penzer – there is a need for affordable housing and this fills that need.

Motion to approve – Mr. Naftali

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3931 – Eli Lerner** -20-12th Street, Block 150.04 Lot 19, R-10 zone. To construct a duplex on an undersized lot – required 12,000 square feet, proposed 9,125.

**From: Terry Vogt, Engineer/Planner – October 16, 2015**

The property is located in the R-10 single family zone. Duplex residential housing is a permitted use provided that a minimum lot area of 12,000 sf and a minimum lot width of 75 feet is provided. Lot 19 is 9,125 sf in size and has an existing lot width of 73 feet; therefore conditional use variance is necessary.

Adam Pfeffer attorney for applicant asked to carry until the December meeting to check the zoning map.

Motion to carry until December 7th, - Mr. Gelley

Second – Mr. Ribiat

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

No further notice and agreed to waive time.

**Appeal # 3932 - Linda Wajsbort** – Hudson Street, Block 108 Lots 3 & 15, R-10 zone. To construct a duplex on 10,680 square feet where 12,000 is required.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – November 5, 2015**

The applicant seeks variance relief and minor subdivision approval in accordance with Section 18-902F of the UDO to subdivide an existing 21,375 sf property into 4 new residential lots. Residential duplex dwellings are a permitted use provided that a minimum lot area exceeds 12,000 sf. A use variance is required since the proposed lots do not contain 12,000 square feet.

Miriam Weinstein represented applicant.

Ed Liston, represented objector. – An adjacent lot 13 is the same owner as the applicant.

Ms. Weinstein – The applicant’s daughter owns the adjacent lot. She is a single women, lives with a parents but does own the house and does not wish to part of this application. She wants to maintain this lot for herself.

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Mr. Liston – they have to prove in writing that they have attempted to make the lot less non-conforming.

Ms. Weinstein – there is a house existing on the lot. They did not send buy/sell letters to the neighbors.

Mr. Dasti – it is required by law to send buy/sell letters.

Ms. Weinstein - asked to adjourn.

Motion to carry until December 7, 2015 – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ribiat,

Mr. Gonzalez, Mr. Halberstam

No further notice and agreed to waive time.

**Resolutions**

**Appeal # 3912 – 126 Forest Developers** 1255 Prospect Street, Block 396 Lot 1.01,

M-1 zone. Resolution to deny a use variance for a retail office building.

Motion to approve – Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Halberstam

**Appeal # 3920 – Mordechai Eichorn**, Oak Street, Block 855.06 Lots 18, 24, 24.01, 27 & 33. R-20 zone. Resolution to deny a use variance to construct 8 single family homes on undersized lots

Motion to approve – Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund

**Appeal # 3914 – Moshe Moskovitz**, Bergen Avenue, Block 245 Lots 11, 12, 13 & 15, R-7.5 zone. Resolution to approve a use variance for 5 undersized duplex lots from 9,157 sf to 9,648 sf where 10,000 is required.

Motion to approve – Mr. Gonzalez

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez,

Mr. Halberstam

Motion to pay bills – Mr. Mund

All in favor.

Motion to adjourn - Mr. Halvorsen

All in favor.

Meeting adjourned at 10:15

Respectfully submitted,

Fran Siegel

Secretary