

**ZONING BOARD OF ADJUSTMENT
MINUTES**

JANUARY 10, 2011

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Schwartz, Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Zaks

Also present: Attorney – Russ Cherkos - Chris Koutsouris
Terry Vogt, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

Chairman announced the two new members of the board Mr. Ribiat as alternate 1 and Mr. Schwartz as alternate 2.

Salute to the flag.

Motion to nominate Abe Halberstam as chairman for 2011 – Mr. Mund

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Motion to nominate Obi Gonzalez as Vice Chair – Mr. Lankry

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Motion to accept Russ Cherkos from Dasti, Murphy, - Mr. Mund

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Motion to accept Terry Vogt from Remington & Vernick for Engineer/planner – Mr. Gonzalez

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Motion for Jackie Wahler for Court Stenographer – Mr. Lankry

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Motion for Fran Siegel for Secretary – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat
Mr. Gonzalez, Mr. Halberstam

Motion to approve minutes of December 20, 2010 with a waiver to read – Mr. Lankry

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Gonzalez,
Mr. Halberstam

Motion to approve Calendar for 2011 – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat
Mr. Gonzalez, Mr. Halberstam

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Motion to approve Annual Report for 2010 – Mr. Gonzalez

Second – Mr. Gelley

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

Mr. Gonzalez, Mr. Halberstam

Correspondence

Request from Abraham Penzer, attorney for **Appeal # 3743, David Seebag, Lakewood Courtyard** to carry to the February 7th meeting. Mr. Penzer said that he will re-notice and he agreed to waive time.

Motion to carry to February 7th – Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Request from Abraham Penzer, attorney for **Appeal # 3755, MTR Ventures**, to carry to the February 7th meeting.

Motion to carry to February 7th – Mr. Gonzalez

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

No further notice. Mr. Penzer agreed to waive time.

Request from Abraham Penzer, attorney for **Appeal # 3761, Nissen Steger**, to carry to the February 7th meeting.

Motion to carry to February 7th – Mr. Gelley

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

No further notice. Mr. Penzer agreed to waive time.

Secretary announced that **Appeal # 3763 – Fairmont Investments** did not notice in time and they will not be heard.

Old Business

Appeal # 3754A – Simon Kaufman, Park & Ridge Avenue, Block 238 Lots 29 & 30, B-2 zone. Site plan for a 6 unit multi family building.

Samuel Brown, attorney for applicant.

Mr. Cherkos – use variance was approved last month. The board bifurcated the application and approved the use variance only.

Mr. Brown – a use variance was approved. There were suggestions from the Board to make amendments to the site.

Nicholas Graviano, Planner and Glen Lines, Engineer were sworn in.

Mr. Graviano – changes were made to the building facade by inserting more brick.

A-5 facade

A-6 revised site plan

Mr. Graviano - Added an additional parking spot on Ridge Avenue, provided more lawn space, provided a sidewalk around the entire building, fenced in the lawn area for the safety of the children playing in that area, will provide playground equipment.

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A-7 specs for tot lot area.

Mr. Graviano - There is a sidewalk on Park Avenue which will connect to the internal sidewalk. They removed one of the stacked parking spaces and placed it along Ridge Avenue. 8 spaces along Park Avenue and 7 along Ridge Avenue. The staircase will be a mixture of brick and wood.

Mr. Lankry was concerned about the wood and asked for a better material to be used.

Mr. Graviano – they will provide a durable material like a trex or a similar material. The refuse enclosure can accommodate either dumpsters or individual bins subject to Public Works approval.

Open to Public.

Chaim Zimmerman, 463 Park Avenue, affirmed. Reside at the neighboring complex to this site. There is not enough parking in the area for this complex. They are taking away on-street parking spaces and adding on 9 driveways on Park Avenue. The safety of children walking is a hazard.

David Kalatsky, 449 Park Avenue, affirmed. Suggested that the building be turned around.

Closed to Public.

Mr. Graviano – He tried that configuration and due to the irregular shape of this project it just doesn't fit. Variances required for this application is front-yard setback for the corner of the dwelling at 6.6 feet. Two side yard setback variances are requested 5 feet on one side and 15 feet on one side.

Motion to approve site plan and variances subject to durable material for stairs, no wooden railings, refuse containers as per Public Works approval, parking space next to tot lot will be pavers and will agree to comply with Engineers report – Mr. Gelley
Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

Appeal # 3757 – 325-323 Realty, 323 Second Street, Block 91 Lot 14, ROP zone. Use variance

Secretary read report.

From: Terry Vogt, Engineer/Planner - November 2, 2010

The referenced site contains two separate structures, one located along the Second Street frontage, one at the rear of the property. According to the submitted application, the existing uses on the site are residential and office use. The applicant requests a use variance and other relief necessary for a change of use to mixed office and residential. The configuration of the site appears to consist of multiple principal uses on one lot, which requires a use variance. Single family dwellings and professional offices are permitted uses with the zoning, but two principal uses on one site require a use variance.

John Doyle represented applicant. Client owns property on the north side between Clifton Avenue & Madison Avenue. There are 2 buildings on the lot. The rear building is a single family house which is a permitted use. Mixed uses are permitted. The one on the right was an office which went bad. It was vacant for over a year. They have changed that office to an apartment. One of the six portions on this site changed from office to residential. To his knowledge there are no violations on this property other than the one for the change of use from office to apartment.

Mr. Cherkos – if we issue the approval that will eliminate the zoning violations only.

Mr. Doyle - On this street is a church, a dentists office, funeral parlor, etc. Described the uses on the block. There are at least 3 pre-existing non conforming uses. Assuming the building is kept it can be an office or an apartment depending on who wants to rent it.

Harold Frankel, affirmed that everything Mr. Doyle just said was true.

Mr. Lankry – the Master plan may say that mixed uses would not be permitted in this area. Concerned about a mixed use and what kind of tenants it will bring to this area.

Opened to Public.

Edward Faktor, affirmed. Dentist next door to this building. There are many people living in this building. There are about 10-12 people in the back drinking, etc. He has been there 18 years. They are whistling and making noises at his patients. They do not clean up the property, there are mattresses, beer bottles, etc. There is wood between the Church property and their property, there is also rats.

Closed to Public.

Mr. Frankel – there has never been an overcrowding violations – there have been trash and debris violations. Existing violation now is the change of use.

Mr. Cherkos – there were 2 residences and 2 offices and they are changing one office to residential.

Mr. Lankry – the master plan would prefer it if the residential uses downtown should be eliminated. Would have a problem approving a mixed use.

Mr. Doyle - The owner has tried for more than a year to rent it as an office.

Mr. Frankel – The people in the backyard are not his tenants – he has decent tenants.

Mr. Halberstam – what could you do to keep the riff-raff out.

Mr. Frankel – he could maybe go there more often during the day.

The Board discussed a fence between the properties.

Mr. Frankel testified that he advertised for over a year for an office use – he then proceeded to turn it over to an apartment. Owns this property more than 10 years. They renovated entirely inside. There is nothing that he could do to the outside could compare it to the new office buildings that are going up.

Mr. Lankry - The Township Committee has been trying to eliminate day laborers and trying to clean up downtown with dilapidated buildings, etc.

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Motion to approve with a white vinyl fence around the entire property and agreed to clean up the property – Mr. Gelley

Mr. Lankry – Mr. Frankel is asking for 1 unit to be changed from an office to a residence.

Mr. Gelley amended his motion to make the building totally mixed use or any combination of both uses.

There was no second to the motion.

Motion to deny this application for a residential unit – Mr. Lankry

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Lankry, Mr. Mund, Mr. Schwartz, Mr. Ribiat,
Mr. Gonzalez, Mr. Halberstam

Nayes: Mr. Gelley

Appeal # 3752 – Florian Andrade, 262 Laurel Avenue, Block 536 Lot 22, R-7.5 zone.
Use variance to allow commercial vehicles in an existing garage in a residential zone.

Secretary read report.

From: Terry Vogt, Engineer/Planner – November 3, 2010

The applicant has requested a use variance to house commercial vehicles in an existing garage on a residential property in the R-7.5 single family residential zone. The existing property includes a frame dwelling along Laurel Avenue and a steel and canvas carport at the rear of the property. The space between the dwelling and the carport is mostly paved and is striped with five parking spaces according to the submitted Variance Map, which includes a note “asphalt parking area in common w/lot 23” which is the neighboring lot. Per the submitted application no construction is proposed.

David Semanchik, attorney representing applicant. Applicant lives on the subject property – he operates a tow truck business. He has 1 tow truck now and would like to have another one he is basically a 24 hour tow truck operator.

Brian Flannery, sworn. Designed the plan.

A-1 colored version of variance map.

A-2 aerial map.

Mr. Flannery – Described area. Laurel Avenue is one of the older neighborhoods. The applicant did not realize that he could not park his tow trucks there and was cited for that. He also owns the adjoining lot that he rents out. No customers come there. This will not have an detrimental impact on the area. The surrounding uses are commercial and industrial and a school across the street. Asking for a use variance to allow this.

Mr. Flannery reviewed Mr. Vogt’s report.

Mr. Flannery – The property is fenced in. There is no public parking so handicapped is not required. This is an existing site. No development is proposed.

Mr. Halberstam – why are there 7 parking spaces?

Mr. Flannery – There are 2 residences that share the parking spaces. There are 4 bedrooms in each residence. They have been there for many years.

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Mr. Flannery – The positive aspect is that applicant is a local businessman that will be able to respond quickly to a towing issue and the board should act favorably. He cannot park a commercial vehicle on a residential property that is why he needs a use variance.

Mr. Halberstam suggested that he park in the public parking lot.

Mr. Semanchik - there is a warehouse and a fellow working on forklifts across the street.

Mr. Halberstam – the board members go and see the site. There is a lot of junk cars and stripped down cars on the site. This sounds more like a junkyard.

Mr. Semanchik – that was in the past – he doesn't do that now.

Mr. Mund - There could potentially have an environmental impact.

Mr. Flannery - They could put a berm along the lower end of the parking lot. The berm would be an enhancement. The applicant lives on lot 22 and he rents out lot 23.

Open to Public. Closed to Public.

Mr. Gonzalez – does not have a problem with parking the vehicles but concerned about junk cars. If a vehicle is picked up at night he should have a drop off area. It is a residential area and we have to keep it as such.

Mr. Flannery - He has a flat bed so it could remain on the truck unless he has to use the truck again.

Mr. Lankry – this just looks like a used car lot.

Mr. Flannery – the parking spaces and the pavement is there – they would be willing to do some landscaping.

Mr. Lankry - This is a residential neighborhood could be a chop shop and will not approve something like that. It is set up to be ...

Mr. Flannery - All he is asking for is only to park his tow truck and will agree to nothing come off the truck.

Motion to deny – Mr. Lankry

Second – Mr. Mund

Roll call vote: affirmative: Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Halberstam

Nays: Mr. Gelley, Mr. Gonzalez

Use variance denied.

**Appeal # 3758 – Lakewood Realty Assoc., 925 New Hampshire Avenue, Block 1160.03
Lots 44.01 & 44.02, M-1 zone. . Use variance to construct apartments.**

Secretary read reports.

From: Terry Vogt, Engineer/Planner – November 11, 2010

The applicant requests a use variance for the construction of a two-phase apartment development on an 18.90 acre property within the M-1 (Industrial) zone. The property is situated northeast of the intersection of New Hampshire and NJ Route 70. The Variance map depicts the total project to include 8 apartment buildings, an internal access road with parking spaces, a community building and recreational area, and several drainage basins. “Phase I” of the project is depicted as including proposed apartment buildings A, B & C, comprising of 74 units, nearest to the property’s New Hampshire Avenue frontage and access. Phase II includes the remainder of the site (179 units as depicted).

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Abraham Penzer represented applicant. Asking for use variance only – not asking for unit count.

A-1 rendered variance map

A-2 rendering of the apartments

Mr. Penzer - The property is immediately across the street from Andrews Corner. This property is unique because it is too narrow for an Industrial use.

Brian Flannery sworn.

A-4 Copies of Smart Growth Plan were given to the Board members.

Mr. Flannery – this is a unique piece of property – there is a conservation area around this property.

A-3 aerial photograph

Mr. Flannery – the school is on the corner of Route 70 and New Hampshire Avenue. To the north is all industrial property. They will need CAFRA approval. They are not asking for any number of units – use only and will come back for site plan. If approved they will satisfy all of Mr. Vogt’s comments when they come back for site plan. This is for an apartment use and this would satisfy the housing needs. Lot 43 has a wetlands corridor and renders the land unbuildable.

Open to Public. Closed to Public.

Mr. Gonzalez – this property should continue to be a commercial zone. Would not be in favor of this complex.

Mr. Lankry – in favor of this application – this is a very nice residential use – There are over a dozen places in the Industrial parking vacant.

Motion to approve use only – Mr. Lankry

Second – Mr. Naftali

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

Nayes: Mr. Gonzalez

Appeal # 3666A – Stanley Rieder, 424 4th Street, Block 71 Lot 3, R-OP Zone. Density variance approved for multi-family units. Minor subdivision and site plan requested.

Secretary read report.

From: Terry Vogt, Engineer/Planner – December 2, 2010

The applicant is requesting minor subdivision approval to construct a multi-family building comprising of 8 units on the listed property, which will then be subdivided into 4 separate lots, which are to be numbered proposed lots 3.01 through 3.04. Each separate lot is proposed to contain a two-story five-bedroom apartment above a two-bedroom basement apartment.

Abraham Penzer represented applicant.

Brian Flannery, sworn.

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Mr. Flannery - this was a bifurcated application – the use was approved almost 3 years ago. The site had an existing multi-family building on it. Agreed to all Mr. Vogts comments in his review letter.

Mr. Halberstam suggested that the decks be removed and there will be patios only.

Applicant agreed.

Mr. Flannery – there is a trash enclosure in the front. The air conditioning units will be screened with landscaping. The applicant does not have a final decision on the siding.

Mr. Lankry - 1/3 of the front of the building will be brick.

Stanley Reider, applicant, affirmed. Agreed to 1/3 height of the front of the building will be brick but did not do a final architectural plan. At least 2 of the townhouses will be for his own children.

Open to Public. Closed to Public.

Motion to approve with the condition that there will be no decks on the side units only a patio and 1/3 of the front of the building will be brick or stone to be approved by Board Engineer – Mr. Gonzalez

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat,
Mr. Gonazalez, Mr. Halberstam

Resolutions

Appeal # 3754 – Simon Kaufman, Park & Ridge Avenue, Block 238 Lots 29 & 30, B-2 zone. Resolution to approve use variance only for a 6-unit multi family building.

Motion to approve – Mr. Mund

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

Appeal # 3744 - Congregation Nachlas Yisroel, Inc. Block 855.01 Lot 23, R-40 zone
Resolution to approve Preliminary/ Final Major Site Plan with Use and Bulk Variances

Motion to approve – Mr. Gonzalez

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Gonzalez,
Mr. Halberstam

Appeal # 3746 – Aharon Rottenberg, 40 & 42 Congress Street, Block 248.03 Lots 53,
54 & 55, R-7.5 zone. Resolution to approve the subdivision of the existing lots into 4
zero lot line lots.

Motion to approve – Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

Appeal # 3751 – Irving Perlstein, 30 West Spruce Street, Block 423.01 Lot 11, R-10
zone. Resolution to approve a subdivision for a duplex with zero lot line with areas of
5,925 square feet where 6,000 would be required.

Motion to approve – Mr. Lankry

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

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Appeal # 3748 - Eli Schwab, Oak Street, Block 1158 Lot 3, R-40 Zone – Resolution to
approve a use variance to construct a 2 story office building.

Motion to approve – Mr. Mund

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

Appeal # 3756 – Dennis Iannaccone/Robert Shanik, 400 Madison Avenue, Block 70
Lot 7.03 R-OP zone. Resolution to approve a use variance to allow a pharmacy use to the
site.

Motion to approve – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Mund, Mr. Naftali,
Mr. Gonzalez, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 10:50.

Respectfully submitted,

Francine Siegel

