

OK-BAK
3/20/19

**TOWNSHIP OF NUTLEY
PLANNING BOARD MEETING MINUTES
Wednesday, February 27, 2019**

A meeting of the Planning Board of the Township of Nutley was held on the third floor of the Township of Nutley Municipal Building, One Kennedy Drive, Commission Chambers. Adequate notification was published in the official newspapers of the Herald News, the Star Ledger and the Nutley Sun on December 13, 2018.

Roll Call

Ms. Castro – Present
Mr. Malfitano – Present
Mr. Contella – Present
Mr. Kirk – Excused
Mr. Greengrove – Present
Ms. Kucinski – Present
Mr. Algieri – Present
Mr. Del Tufo – Present
Mr. Arcuti - Excused
Ms. Tangorra – Present
Mr. Kozyra – Present
Commissioner Evans – Excused
Mayor Scarpelli – Excused

Meeting Minutes

The Meeting Minutes for February 6, 2019 were accepted by the Board.

Communications/Bills

An invoice for Gail Santasieri in the amount of \$150 for her attendance at and preparation of the February 6, 2019 Meeting Minutes was approved by the Board.

A \$10 escrow refund to North American Eagle Construction for the 57 East Centre Street project was approved by the Board.

A Resolution from the Commissioners for escrow refunds for the following properties were approved by the Board:

1. 145 Franklin Avenue in the amount of \$3,750;
2. 111 Crestwood Avenue in the amount of \$1,000; and
3. 551-553 Centre Street in the amount of \$1,302.50 (this includes the \$10 refund listed above.

The proceedings in this matter were voice recorded. The recital of facts in the Minutes is not intended to be all-inclusive but is a summary and highlight of the complete record made before the Planning Board.

An invoice for Pennoni Associates in the amount of \$1,062 for planning services rendered through 1/20/19 regarding the Roche Phase II Planning Board resolution was approved by the Board.

An invoice for Pennoni Associates in the amount of \$1,481.50 for professional services rendered regarding the Roche Phase II Planning Board resolution was approved by the Board.

An invoice for RicciPlanning in the amount of \$130 for review of the Clover Street Application (dated 7/19/18) was approved by the Board.

Mr. Algieri recused himself from participation and hearing 74 East Passaic Avenue application.

Mr. Kozyra handed out elevation drawings (dated 2/14/19) for tonight's hearing.

Old Business

237 Centre Street Resolution

All Board Members reviewed the Resolution and was unanimously approved.

Ms. Castro – Yes
Mr. Malfitano – Yes
Mr. Contella – Yes
Mr. Greengrove - Yes
Ms. Kucinski – Yes
Mr. Algieri – Excused
Mr. Del Tufo - Yes
Ms. Tangorra – Yes

New Business

Green Acres Park Development Application

Mayor Scarpelli asked Mr. Kozyra to bring to the Board's attention a letter received from Commissioner Tucci (Parks & Recreation Dept.) asking the Board to issue a letter to the Department of Environmental Protection regarding the Green Acres Park Development Application for track and tennis court improvements at DeMuro Park. The letter would indicate that the Board believes the Application to be consistent with the Essex County Open Space and the Recreation Plan/Nutley Master Plan. Commissioner Tucci asked that the Board express support of the Township's efforts to improve the park and seek to have the DEP expedite the Application.

Mr. Del Tufo asked if this type of letter is standard procedure. Mr. Kozyra stated he was not sure as the Board has not been asked to issue such a letter in the past but stated that the proposed letter is consistent with the Board's expressions in the Master and Plan and the County Open

Space Plan. The letter sought essentially summarizes and gives official recognition and the need for the letter. If the letter is approved by the Board Mr. Kozyra will have it retyped on the Board's letterhead and signed by Ms. Tangorra.

An open voice vote was taken which unanimously approved the letter.

74 East Passaic Avenue Application Hearing

Marina Perna, Esq., appeared representing Applicant/Purchaser/Architect Joseph Haines. She preliminarily indicated her client has received a "No Further Action" letter from the State DEP allowing the proposed construction as the property meets residential standards.

Mr. Kozyra stated that he received a copy of the Proof of Publication in the Nutley Sun (Ex. A-1), Proof of Service on neighboring property owners (Ex. A-2) and identified the plans being used as having been marked A-3.

Joseph Haines, 16 Cottage Place, Nutley (home address)
16 Cortland Place, Montclair (business address)

Ms. Tangorra advised that since Mr. Haines has been before the Board on several other matters that his credentials as an expert architect were accepted.

Mr. Haines stated that he has been working on this project since October 2018. He wants to bring his Montclair office to Nutley. He has had the property looked at environmentally since it was a gas station, vacant for over 12+ years. It has been cleaned up and a "No Further Action" letter was issued. He claims that all storm drainage work will be done above regulations and all water will stay on the property.

Ex. 3 shows a location map – East Passaic Avenue/Milton Avenue. The Garden State Parkway dissects the property in a triangle with Bloomfield on the other two sides. The property is zoned B2. Single and two-family homes neighboring the property are zoned R1.

Ex. 4 is marked which is a site drawing also designated as S1 – Existing Site Survey, Demo Site Plan and Details showing the current building, which will be demolished. The current structure is a one-story gas station with fencing. The building has an office space and two mechanic bays.

Ex. 5 is marked which is a site drawing also designated as S2 – Proposed Site Plan and Details. The two-story building will meet all setback, height and density requirements for a B2 zoning. The setback will be 10+ feet from Milton and Passaic Avenues, 6+ feet on the Milton side and the rear yard will be 48'6". The front entrance will be on East Passaic Avenue, there will be 18 parking spaces – 9 on either side of the building, and a trash enclosure at the back of the building. The trash enclosure exterior will match the building's façade and will be as far away from the neighboring properties as possible.

Ex. 6 is marked which is a site drawing also designated as S4 – Proposed Landscape Plan, Lighting Plan and Details. The Applicant indicated he wants the landscaping to enhance the look of the building – he used low shrubs with street trees 60 feet apart for site distances. There will be only one curb cut of 20', as compared to several already there since the prior property use was as a gas station. He stipulated to widening the driveway entrance to 24' so no variance or waiver is needed.

Site lighting will be minimal because of the residential second floor and neighbors. He usually does not conduct business after 5:00 p.m. The ordinance requires one-foot candle, which he will provide for most of the parking area. Wall paths will light up the driving portion of the parking lot. He does not want to create too much lighting for the neighboring properties. He will add more lighting if the Board feels it is needed.

Ex. 7 is marked which is an architectural drawing of the building. The building is under 10,000 sq. ft. The first floor is under 3,000 sq. ft. with two offices. He is not sure which office will be his until a new commercial tenant is found. There are two sets of stairs. No elevator is required. There are two mechanical spaces on the first floor because there will be no basement. The second floor will have 5 apartments – (4) 1-bedroom units and (1) 2-bedroom unit. The back steps will be for egress only. The 1-bedroom apartments will have an open concept – living room, kitchen, bathroom, walk-in closet in the bedroom and 9' ceilings and be 925-930 sq. ft. The 2-bedroom apartment will be a loft style with 10' ceilings, two full baths and repeat the same open space concept and be 1500 sq. ft. All the apartments are laid out on the drawing.

Ex. 8 is marked which is an elevation drawing (which he does not use). Instead, he uses an information drawing which was requested by the Board. This is Ex. 9 which shows the west elevation adjacent to the two-family house past the parking lot. The building height to the roof will be 24'8" which conforms with the zoning ordinance requirements. The parapet is 23'6". Houses on East Passaic Avenue average 23'8" and on Milton Avenue 28'. He said he was trying to make a commercial building that would blend in with the surrounding residential buildings.

The materials he plans to use are:

- Masonry brick on the bottom façade
- Cement siding board on the second floor
- Transom windows on second floor
- Store front façade on bottom

Ex. 10 is marked which is a blown-up rendering (previously submitted) of what the building will look like from the corner of East Passaic and Milton Avenues. The surrounding building are gray shadowed. He wants to use tan brick with cement on top with white trim, roof shingles will be in the brown family.

Mr. Haines stated that he received the following reports:

1. Forester - John Linson. He has no exceptions to the report and will extend the grass area to the corner as recommended if needed.

2. Paul Ricci. He has no exceptions to the report. He asked for the tree buffers in the parking lot to be 6" tall (ordinance requirements) and he will do that.
3. Pennoni. He has no exceptions to the report. He will increase the lighting as requested, he will widen the driveway width to 24', and the parking spot right at the property line is 11'8" instead of 20'. He will need a design waiver for that space.

Ms. Tangorra asked to see the parking space drawing (A5 drawing S2). Mr. Haines stated that he thought Nutley only required 10' spots. He did not realize zoning required 20' and he is requesting a design waiver for this also.

There were no additional questions from the Board.

Public Questions:

April Spino, 179 Milton Avenue. Ms. Spino had a statement to make rather than a question to ask so she was to come back at that portion of the hearing.

Girish Paghval, 170 Milton Avenue. Mr. Paghval is looking for a visibility survey showing traffic flow, school attendance and street traffic. He believes these specific issues have not been talked about or shown by the Applicant.

Ms. Tangorra asked Mr. Haines about the traffic and how many employees will be parking in the parking lot.

Mr. Haines stated that he does not yet know how many people would be employed in the two offices but he has met the Township parking requirements – for the businesses that is 10 spaces; he has 5 employees. He feels, too, that residential spots will be open during the day for use and the business spots will open at night for use. The business and residential spots will not all be used at the same time. Each 1-bedroom apartment gets one spot and the 2-bedroom apartment will get two spots.

Ms. Spino asked how a one bedroom with two people can have only one parking spot.

Mr. Haines answered that he is required to meet the Township parking requirements by having 8 residential spots and 10 commercial spots which he meets.

Ms. Spino asked what the separator will be between her property and the new building.

Mr. Haines stated that on the east side of the building (next to her property) there will be a vinyl fence 6' high from the back of her house, past her garage and around the corner to the back of the two-family house on East Passaic Avenue, meeting the ordinance requirements. On both sides of his property he will have arbor vitae. There will be a retaining wall by Ms. Spino's driveway with low plantings.

Mr. Paghval asked if there will be any business customers coming to the property?

Mr. Haines answered that not many of his clients come to his present office. He is not sure what the other commercial tenant will have. He said that there is also available parking on East Passaic Avenue if needed.

Witnesses:

Paul Ricci, AICP, PP, 45 Bleeker Street, Newark

Mr. Kozyra stated that Mr. Ricci provided a reported for the Board dated February 21.

Mr. Ricci stated that he reviewed the project with Mr. Berry, Zoning Officer. The code required one parking space per 300 sq. ft. of office space. The applicant proposes slightly shy of 3,000 sq. ft. and rounding up therefore required 10 parking spaces. The four 1-bedroom apartments required 1.5 spots for a total of 6 parking spots. The 2-bedroom apartment required two spaces, which totals 18 total spaces. He agrees that at night the 18 spaces divided by 5 equals 3 spaces for each resident and guests.

Mr. Ricci stated that he did not disagree with anything Mr. Haines has presented. With regard to the driveway opening, he will require a design waiver. He agrees with the lighting and landscape placement. He feels Mr. Haines has provided architectural designs with regard to keeping the residential neighbors happy. Everything is code complaint for B2 zoning.

A Board Member asked about traffic coming/going at the property.

Mr. Ricci stated that he is not sure what the traffic flow will be. He saw it as a low impact office on a commercial property. He is less concerned with permitted usage. A certain degree of traffic should be expected. A traffic report for a small property is usually not required.

There were no statements/questions from the public regarding Mr. Ricci's testimony.

Todd Hay, 24 Commerce Street, Newark

Mr. Hay had prepared a report for the Board dated February 18, 2019.

Mr. Hay talked about conversions of service stations. He compared the current project to the Passaic Avenue/Kingsland Street application and that trip generation; Franklin Avenue/Kingsland Street had a similar trip generation (with a large retail component); and the 7-11 on Darling Avenue which also had a heavy trip generation. He feels that this application regarding the traffic and trip generation will not negatively affect the neighborhood.

He confirmed that Mr. Haines agreed to meet many of the requirements in his report to the Board, i.e., driveway size, parking spaces, lighting, utilities, water seepage and sewer. He observed that the property had been cleaned and now meets all environmental requirements. This must be done to get a building permit.

Mr. Malfitano asked about the lighting going from the building out to the property line and possibly reversing it so the lights do not shine into the neighboring properties.

Mr. Hay suggested the possibility of using cut offs thereby reducing the light levels to 0.5 or lower. He feels the parking lot needs to be made safe for the apartment residents but not be bothersome to the residential neighbors.

Mr. Malfitano asked how the Board can go about approving something that is, in theory proposed, but is not in the plan?

Mr. Hay said the Resolution should stipulate that the Applicant will make every attempt to put in cut offs, back shielding, corrective lighting and reduce foot lighting. Mr. Hay agrees that the light levels are high but a healthy balance is needed with commercial and residential properties.

Another Board Member brought up the fact that Mr. Hay mentioned Essex County approval is needed for East Passaic Avenue.

Mr. Hay stated that when you are building adjacent to a county road you need approval from the County for cut outs or any alterations to the curb.

There were no statements/questions from the public regarding Mr. Hay's testimony.

Public Statements

Michael Ajay, 133 High Street, Nutley, spoke about families with children moving into the apartments and causing further crowding of the public schools. He is also concerned about the inherent structure changing in Nutley.

Peter Zoppi, 174 Milton Avenue, Nutley, is concerned about the parking situation with two mixed-use buildings on the corners and traffic.

April Spino has concerns about the dumpster in the back of the parking lot, snow removal and the amount of people coming and going from the property daily.

Mr. Kozyra asked if Mr. Haines stipulated to the color rendition provided on the drawings since several times the final project is different from the proposed project. Mr. Haines stipulated that the proposed color is what he expects to be using.

Mr. Kozyra had questions regarding Mr. Hay's report:

The driveway is going to be 24' in width, correct?

Correct. The driveway cut (at the curb) has to be 20'. After the sidewalk it will be widened to 24' (currently 20').

Does he need a variance for the widening?

A design waiver

Mr. Kozyra asked Mr. Ricci his position and Mr. Ricci stated that he spoke with Mr. Berry and a 20' driveway is compliant. The Site Plan Ordinance requires the driveway to be 24' so if the driveway is widened a variance is required, if it stays at 20' a design waiver is required.

Mr. Haines stated that he would rather have a 24' driveway curb cut to match the 24' driveway, which would require a variance.

Mr. Malfitano asked if the County will grant that since it is a county road. Mr. Kozyra said the County has nothing to do with this issue. Curb cuts are a municipality requirement.

Mr. Haines stated that the whole curb is a curb cut. He is actually closing them up and creating parking spaces.

Mr. Kozyra had the following further questions:

Do you agree to the removal of existing shrubs to improve site distance?

Yes

Handicap ramp detail will be handled by the Code Department. They will contact you.

Will you provide a truck turning plate?

Yes

We will try to come up with language that will meet with what Mr. Hay said about the lighting. Will you comply with that?

Absolutely

Not sure what the pavement trench repair is, but you will do that?

Correct

It requires that the park and pavement detail will have a 4" thick base and you will do that?

Yes

The post grass strips, you dealt with that and you agree to do what is required?

Correct

No questions about right of way improvement. Mr. Hay requested additional spot elevations to the grading plan. Not a problem?

No

Spot elevation for the perimeter, you are ok with that number too?

Yes

The invert elevation of the roof drain pipe has already been provided at the building and pipe location changes, okay?

Yes

You will provide top and bottom wall elevations for the proposed retaining wall?

Yes

You will revise the plans to show pipe size and type of water for the sewer laterals and deal with the Water/Sewer Department on that?

Yes

It requires that a separate sanitary sewer main be separated from the water main by 10'. If that is not possible, you will deal with that, correct?

Correct

Storm water management conditions, you are satisfied that you can meet those requirements?

Yes

There are miscellaneous provisions that Mr. Hay has included and requires separate approvals from the County Planning and Engineering Departments. You are okay with that?

Yes

The Resolution, if passed, will require the strict adherence to Mr. Hay's and Mr. Ricci's reports as indicated. Ad you are okay with those?

Yes

Mr. Malfitano said that while listening to the neighbors' concerns, he was sure Mr. Haines would want to be a good neighbor. He thought the trash enclosure looked adequate and covered the view of the trash cans. He stated the containers should come with lids.

Mr. Haines stated that they will have lids. He said that since he will be working at the property he will make sure that the property is always neat.

Mr. Malfitano asked if the trash enclosure will be for the residents as well as the commercial tenants and Mr. Haines said "Yes."

Ms. Perna made a short closing statement thanking the Board for its attention.

Mr. Malfitano stated that he feels that Mr. Haines presented a well thought out presentation. His professional image will be shown in the finished building. Regarding the schools and increase of children, that has been an issue forever but is not relevant to this application. He commended Mr. Haines on thinking this application through. He feels it will be a positive impact having Mr. Haines as the owner/occupant and will help to develop a positive environment.

Ms. Tangorra agreed with Mr. Malfitano's statement. She thinks the application will be a vast improvement to what is currently there.

A motion was made to approve the application with the stipulations that were described by counsel, with compliance with the two reports from the Board's experts, and the design waivers. If the Resolution is passed Mr. Kozyra will draft same. The application was unanimously approved.

Ms. Castro – Yes
Mr. Malfitano – Yes
Mr. Contella – Yes
Mr. Greengrove - Yes
Ms. Kucinski – Yes
Mr. Algieri – Recused
Mr. Del Tufo - Yes
Ms. Tangorra – Yes

Committee/Sub-Committee Reports

None

The meeting concluded at 8:44 p.m.

The next meeting is scheduled for Wednesday, March 20, 2019 at 7:00 p.m.