

Approved
9/16/20
BAC

**TOWNSHIP OF NUTLEY
PLANNING BOARD MEETING MINUTES
Wednesday, September 2, 2020**

A meeting of the Planning Board of the Township of Nutley was held via Zoom. Adequate notification was published in the official newspapers of the Herald News, the Star Ledger and the Nutley Sun on November 28, 2019 and posted on the Township website and at the Township of Nutley Municipal Building, One Kennedy Drive.

Roll Call

- Ms. Castro – Excused
- Mr. Malfitano – Present
- Mr. Contella – Present
- Mr. Kirk – Present
- Mr. Greengrove – Excused
- Ms. Kucinski – Present
- Mr. Del Tufo, Secretary – Present
- Mr. Arcuti, Vice Chair – Present
- Mr. Smith - Present
- Ms. Tangorra, Chair – Present
- Mr. Kozyra – Present
- Commissioner Scarpelli – Present
- Mayor Tucci – Present

Meeting Minutes

The Meeting Minutes for the August 19, 2020 meeting were accepted by the Board.

Communications/Bills

An invoice for Gail Santasieri in the amount of \$150.00 for her attendance at and preparation of the August 19, 2020 Meeting Minutes was approved by the Board.

An invoice for Barry Kozyra, Esq. in the amount of \$800 for his attendance at Zoom Special Meeting on August 31, 2020 regarding the 111 Ideation Way Subdivision/Site Plan application was approved by the Board.

An invoice for RicciPlanning, #NTPB-00200-01 in the amount of \$520.00 for review of plans and preparation of review letter for the 52 Passaic Street application was approved by the Board.

An invoice for DMR Architects, #2020686 in the amount of \$1,121.35 for professional services rendered 6/1/20 – 7/31/20 for the Franklin Avenue/Ciccolini investigation study was approved by the Board.

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.

Old Business

A Resolution approving the Proponent Federal Credit Union's proposed remodeling of 173 Bloomfield Avenue was approved by the Board.

New Business

Hoffman LaRoche Phase 3 Redevelopment Consistency Review

The Board agreed to schedule a consistency review hearing for September 16, 2020.

Hearing for 52 Passaic Avenue Preliminary/Final Subdivision

WITNESSES: Guillerm Argote, Member of Wood Avenue Assets, LLC, Scotch Plains, NJ
Adnan Khan, Site Engineer, AWZ Engineering, 150 River Road, Montvale, NJ
Ali Qureshi, Architect, 236 Grand View Avenue, North Caldwell, NJ
Steve Lydon, Planner, 25 Westwood Avenue, Westwood, NJ

Robert Gaccione, Esq., Gaccione & Pomaco, PC, 524 Union Avenue, Belleville, NJ, represented Applicant Wood Avenue Assets, LLC. His client is seeking preliminary and final major subdivision approval in order to subdivide the existing lot into two lots, leaving the existing two-family home and constructing a new one-family home.

Guillermo Argote – Mr. Argote confirmed that Wood Avenue Assets was the owner of 52 Passaic Avenue. He stated that the property was a foreclosure purchase in December 2019 and he has done minor renovations to the existing structure but is waiting for the Board's approval of this application to do major renovations. He stated that he wants to clear the proposed lot and build a one-family structure and then sell both properties.

Mr. Arcuti wanted to clarify that Mr. Argote is the owner of the property and Mr. Gaccione answered that it is owned by the entity, which Mr. Argote and his wife share 50/50.

Adnan Kahn – The Board accepted Mr. Kahn's credentials as an expert in his field. Mr. Kahn confirmed that he prepared the engineering site plan and the subdivision plan. He stated that they are planning to subdivide the property, leave the two-family home (south side of the lot) and build a one-family home (north side of the property). He further stated that the two-family's driveway can accommodate up to four cars and the property is relatively flat. The empty lot has water issues and they are planning to address increased impervious coverage by installing a drywell system to control the storm water runoff. Mr. Kahn was asked about the trees that are growing on the empty lot and he stated that many of the trees are either dead or in disrepair. He stated that Mr. Argote had the property cleaned out when it was purchased and all that remains are some shrubs and trees at the front of the property, which will be removed when construction starts. They are planning to plant new shade trees. He was also asked to explain the proposed ingress/egress and parking for the new one-family and he stated that the new house would have a

single car garage with a 25' driveway which will be 8' wide. Mr. Gaccione asked if he had a chance to review Mr. Ricci's report and he answered, "Yes I did." He stated that he believes there are no issues that they cannot comply with.

Mr. Del Tufo asked what the existing front yard setback is on the existing two-family home because he saw two different dimensions, and Mr. Kahn answered the setback will be 11.8' and the front yard will be 25'.

Ms. Kucinski asked if the driveway will be wide enough to accommodate one car and he answered, "Yes." Mr. Gaccione wanted to confirm that he was talking about the one-family home and he responded, "Yes." The garage will hold one car and the driveway will accommodate one car.

Mayor Tucci asked about the drainage system and the 100 year storms, could any of the recent storms we have had be considered a 100 year storm. He answered that Sandy was probably a 500 year storm and the current rains we have had (the last few days) are more like two 100 year storms or an inch and a half. So more than 60% of the time it is only two 100 year storms that usually fall. Mayor Tucci asked him in his professional opinion will the drainage designed for a 100 year storm suffice for the structure they hope to build and he answered that they were following the DEP recommended guidelines and he didn't foresee any problems.

Mr. Malfitano had a question about the date on Mr. Kahn's plan, which was earlier than the date on Mr. Ricci's letter, and how he could have addressed some of those comments. Mr. Gaccione responded that Mr. Ricci's letter mainly had to do with the architectural plans and those plans had been changed and resubmitted. Mr. Malfitano replied that there were some civil engineer issues in Mr. Ricci's letter but his main concerns were the sidewalks/curbing replacement and to clarify the apron description. Mr. Kahn replied that the current sidewalks are in satisfactory condition but due to construction activities there is a potential they may get damaged and/or need repairs. The plan states "any existing curbs or other objects damaged during construction shall be repaired or replaced to the satisfaction of the township engineer." It also states that "the applicant shall be responsible for restoring the asphalt pavements and curbing to the satisfaction of the township. The plan also has a detailed note regarding the installation of a concrete apron.

Commissioner Scarpelli had a question regarding the water service at the property and Mr. Kahn replied that they are proposing all new utility services for the new house because the existing services are for the two-family home. Commissioner Scarpelli wanted to confirm that the new home would be using the Township water and sewer lines and Mr. Kahn replied, "Yes." Commissioner Scarpelli asked if they would be willing to put in new sidewalks and curbing since they are going to build a new house. Mr. Gaccione asked Mr. Argote if he would agree to installing all new sidewalks/curbing and Mr. Argote said, "Absolutely."

Mr. Gaccione brought Mr. Kahn back to discuss questions that were brought up about trees and the side yard in relation to the two-family house line. Mr. Kahn replied that the two-family house is approximately 2.4 ft. from the side property line and in the back it is 3½ ft. Regarding the tree to the far left of the new building, he stated that that tree will remain.

Mr. Del Tufo asked if he knew the distance between the two buildings and Mr. Kahn answered 8.4'. Mr. Del Tufo asked about the other side and Mr. Kahn responded 6.68'.

Mr. Malfitano stated that he had a concern regarding the dimensions of the lots

Ali Qureshi - The Board accepted Mr. Qureshi's credentials as an expert in his field. Mr. Qureshi was asked to describe the existing structure and he stated that it was a two-family house and each floor has approximately 1,000 sq. feet; it has three bedrooms and one bathroom. The basement is partially finished with mechanical equipment. There is parking for two cars on the side yard. He stated that the new house will have a 500 sq. ft. unfinished basement with a mechanical room in the back, the ground floor will be the common area with a one-car garage, bathroom, kitchen, dining room and living room. The size of the first floor is approximately 1,000 sq. ft., 280 of which is the garage. Mr. Gaccione asked him to describe the changes he made subsequent to Mr. Ricci's letter and Mr. Qureshi stated the main change was that they took out the bathroom from the basement and they took out the outside stairs to the basement. They lowered the attic area to only four feet high so that it can only be used for storage. They took down the attic stairs so that it will only have an access door. They lowered the overall height of the building from 29 ft. to 26 ft. so this way the basement cannot be used as an illegal apartment and the third floor will not be used as a living space, making the house smaller as per the town's planner's comments. Mr. Gaccione asked him to briefly describe the proposed rooms and he replied that on the ground floor there is the garage, living room, dining room, kitchen, bathroom and some storage space. The second floor has three bedrooms, two bathrooms, walk-in closets, and an office space that cannot qualify as a bedroom because of its size. Mr. Gaccione asked him to describe the outside appearance and he stated that there will be a stone foundation with vinyl siding and landscaping in the front. Mr. Gaccione asked if there were any other comments regarding Mr. Ricci's letter and Mr. Qureshi stated that the basement is more than 50% in the ground so it cannot be considered a floor so the structure will be considered a 2½ story building.

Mayor Tucci asked what the total height of the basement will be and Mr. Qureshi responded eight ft. Mayor Tucci asked if that would be considered storage space or habitable space. Mr. Qureshi said it can be habitable if it is finished. Mr. Gaccione asked Mr. Qureshi to describe the changes he made to the plan to ensure the basement would not be considered habitable and Mr. Qureshi replied that they are calling it an unfinished space so if the owner wants to use the basement for a living space they would have to go to the Building Department and Zoning Board for an adjustment. Mr. Gaccione asked him to confirm that there is no access to the basement from the outside and he replied that there is not.

Steve Lydon - The Board accepted Mr. Kahn's credentials as an expert in his field. Mr. Gaccione asked him to describe the property as it relates to the planning considerations and he responded that it is identified as Block 9301, Lot 9, the current property size is 7,849 sq. ft., has a dimension of 90 ft. and a depth of 82 ft. The property in the rear is a township park. The pre-existing two-family house is on the southern side of the property. This property in its current state is among the largest lot sizes in the neighborhood. Mr. Gaccione asked him to go into some detail about the adjacent properties and he responded that Lot 10 has 37½' of frontage along

Passaic Avenue, Lot 8 has 37' of frontage along Passaic Avenue, both lots are developed with two-family homes. From a lot size and frontage perspective the subject property is one of the larger lots in the area. If the subdivision is approved the lot size of the property with the two-family home will be 3,791 sq. ft. The lot size for the single family home will be 4,057 sq. ft. This is in a R2 zone that does allow for single and two-family dwellings and the area is characterized by a variety of lot sizes. He further stated that the Applicant is seeking permitted uses and they have requested a number of variances.

If approved Lot 9.01 will be 3,791 sq. ft. where 6,000 sq. ft. is required, there would be 45.1' of frontage where 60' is required, a rear lot of 82.6' and a front yard of 11.8 ft. The other two variances that relate to this lot would be the maximum lot coverage which is slightly over 40.56% and the front yard landscape is 43.4%. The variances on Lot 9.02 will be 4,057 sq. ft. where 5,000 sq. ft. is required, it has a lot width of 44.9' where 50 is required, it has a depth of 81.9' where 100' is required, it has a front yard of 25' except where the front porch and steps will be, the two side yards will be 20' which meets the requirements and the rear yard meets the criteria except at one point it is 29' where 30' is required. The building height, lot coverage, impervious coverage and landscape would all be satisfied. Therefore, they need to prove either C1 or C2 variances and they need to satisfy the negative criteria which means there cannot be any detriment to the public good nor a substantial impairment to the master plan. He feels that they achieve the master plan goal of consistency with the neighborhood if they are allowed to build a single-family home. Drainage will be improved significantly and they will be enhancing the visual appearance of the site through the front yard landscaping. Mr. Gaccione asked if the front yard setback of the proposed one-family is generous in comparison to the existing adjacent front yard setbacks and Mr. Lydon responded, "Yes."

Commissioner Scarpelli asked if the two-family presently conforms with the zoning ordinance and Mr. Lydon responses, "Yes." Commissioner Scarpelli asked to confirm that by subdividing they will be creating two undersized lots that do not conform and Mr. Lydon responded, "Yes." Commissioner Scarpelli asked if he knew when the existing area properties were built and Mr. Lydon replied that they were generally older dwellings, maybe 60-70 years old. Commissioner Scarpelli asked if they pre-dated the zoning ordinance and he replied, "It's possible." Commissioner Scarpelli said that the master plan mentions conserving open space and he is not sure construction of a new one-family home would conserve that open space.

Mr. Gaccione asked if this property is one of the larger if not the largest lot in the area and Mr. Lydon responded, "Yes, except for the park directly behind the subject property." Mr. Gaccione asked if the property is unique in that the subdivision and building of the one-family home will not affect the pre-existing two-family home and Mr. Lydon answered, "Yes." Mr. Gaccione brought up Commissioner Scarpelli's statement about older structures and the zoning ordinance and he asked if there was case law regarding having one lot left you have a right to what it had been and they cannot just change the zoning ordinance and deprive you of your rights. Mr. Lydon respond, "Yes." Mr. Gaccione asked if the new one-family dwelling is good for the older homes in the neighborhood and Mr. Lydon responded, "Yes."

Paul Ricci – Regarding his August 18, 2020 letter, he noticed that the building has been substantially reduced in size. The applicant did provide information about the lot sizes and the ages of the adjacent homes. Mr. Gaccione stated that architect testified about the changes made pursuant to Mr. Ricci’s letter and Mr. Ricci commented that he did see the notes on the plans. He just wants the Board to know that the lots will be undersized and meet many of the setbacks. He stated that the front yard setbacks should be uniform so the area looks desirable. He stated that the master plan did have a specific recommendation for one and two-family properties. The plan talks about increasing the minimum lot size for duplex structures and with this application that is not consistent with the plan. He said that in his letter he was trying to get testimony that was clear about the characteristics of the area.

Commissioner Scarpelli asked if Mr. Gaccione had any testimony regarding a previous variance that was denied and Mr. Gaccione stated that the case brought before the Zoning Board was a completely different case regarding a height variance and a lot of issues that distinguished this case from that case and if necessary he can provide testimony from one of the witnesses in that case. He did not think it was a close question and that is why he did not bring it up. He asked Mr. Kozyra if he wanted the testimony provided and Mr. Kozyra responded that his client was the applicant and it was up to him but that *res judicata* was raised and it is up to the Board to make that conclusion. Mr. Gaccione asked who raised it and Commissioner Scarpelli answered that he did.

Mr. Hay – stated that he did not have any questions because it is site plan exempt because it is a two-family.

Mr. Malfitano stated that in his opening Mr. Argote mentioned improvements he had planned and that he was working with the Town regarding complaints that were made about the condition of the existing property; he was wondering what the complaints were. Mr. Argote replied that the trash being tossed on the vacant lot was the main complaint.

Mayor Tucci asked Mr. Argote if he planned to put a fence up between his property and the Town park and Mr. Kahn answered that there was a partial linked fence in place and Mr. Argote said that he would add to the existing fence.

Commissioner Scarpelli stated that he is concerned because this is a conforming use being made into two lots that are non-conforming. He said there has also been a property maintenance issue and he feels that a new structure in that area will be a benefit and will revive the area. He is torn between these two issues.

Mr. Arcuti said that he was conflicted with the fact there is going to be a lot that is less than 3,800 sq. ft. with a two-family house on it. The existing condition compared to what it will look like leaves him conflicted.

Mr. Del Tufo stated that his concern is whether it consistent with the character of the neighborhood. He feels that the application is not inconsistent. Ms. Tangorra stated that she agreed with Mr. Del Tufo but then drove by the property and changed her mind.

Mr. Del Tufo made a motion to approve the application as shown on the drawings along with (1) new curbs and sidewalks being installed; (2) the new house would have all new utilities; and (3) that the rear yard be appropriately landscaped with appropriate screening between the rear lot and the Town park. Mr. Kozyra stated that he thinks Mr. Del Tufo needs to explain why it is being approved and Mr. Del Tufo responded that he feels the proposal is consistent in architecture with the adjoining properties. The proposed building is within the same character as the neighborhood. Improvements to the drainage and the overall landscaping would also be an improvement to the neighborhood. The proposal does not provide any detrimental effect to the neighborhood, which is witnessed by the fact that there is no opposition. For those reasons he feels that the application can be approved.

Mr. Malfitano – Yes
Mr. Contella – Yes
Mr. Kirk - Yes
Ms. Kucinski – Yes
Mr. Del Tufo – Yes
Mr. Arcuti - Yes
Mr. Smith - Yes
Ms. Tangorra – Yes
Commissioner Scarpelli – Yes
Mayor Tucci – Yes

Public Comments

None

Hearing for PB Nutcliff Master, LLC – 111 Ideation Way Parking Lot Preliminary/Final Site Plan and Preliminary/Final Subdivision Approval

Mr. Kozyra noted exhibits have been pre-marked as follows:

A1 – Proof of Publication
A2 – Affidavit of Service on Property Owners
A3 – Subdivision Plans (preliminary/major site plans dated 7/21/20)
A4 – Subdivision Plan, (preliminary/final major subdivision dated 12/20/18)
A5 – Colorized rendering of the Landscaping Plan (L-1.0) dated 7/21/20
A6 – Project Easement Exhibit dated 9/1/20
A7 – Fire Truck Turnaround Exhibit dated 9/2/20

WITNESSES: Eugene Diaz, c/o 200 Metro Boulevard, Suite 1300, Nutley, NJ
Richard Procanik, PE, Greenberg Farrow, 92 E. Main Street, Suite 410,
Somerville, NJ
Jaroslava Vonder, Surveyor, PS&S, 678 Mountain Boulevard, Warren, NJ
David Novak, PP, AICP, Burgess Assoc., 25 Westwood Avenue, Westwood, NJ

Meryl Gonchar, Esq., Sills Cummis & Gross, One Riverfront Plaza, Newark, NJ, represents the Applicant, PB Nutclif Master LLC. This is an application for preliminary/final site plan approval and preliminary/final subdivision approval, seeking a variance for deviation with regard the required number of parking spaces, and seeking a variance for relief for private roadways. The subject property is Lot 1.05, Block 300, a/k/a 111 Ideation Way in the On3 campus. This application is only for the modification/expansion of the parking lot, not for any modifications to the building. There are currently 120 on-site parking spaces and they want to add more, there are seven parallel parking spaces on Ideation Way and they want to change those seven spaces to 10 angled spaces making a total of 10 off-site spaces and 146 on-site spaces. For the proposed preliminary/final major subdivision they are seeking to subdivide Lot 1.05 into two lots, one with 4.09 acres and an existing building; and the second with 1.20 acres and no building. The original plan for Lot 1.05 is no longer necessary so they want to subdivide the parcel into another conforming lot. The variance they are seeking would permit a total of 146 on-site spaces and 10 off-site spaces, which is less than the 498 spaces provided in the ordinance. She stated that they have appeared before the Board of Commissioners with this proposal in August for consistency review.

Richard Procanik – The Board accepted Mr. Procanik’s credentials as an expert in his field. He was asked to describe the building at 111 Ideation Way and he stated that it is a six-story building, approximately 27,643 sq. ft., with 120 on-site spaces and two parking fields. The larger field will be referred to as the primary parking field because it has the largest number of parking spaces. The smaller lot has nine spaces and is at the southeast corner of the building. The building has an elevated building connector that provides access to the School of Medicine building, 123 Metro Boulevard. He wanted to clarify that the seven parking spots Ms. Gonchar referred to are street spaces and have not been assigned to a specific tenant. Regarding the subdivision plan, he stated that Lot 1.05 will be reduced from 5.29 acres to 4.09 acres, and the smaller lot would be 1.2 acres, both lots are conforming with the Redevelopment plan that was previously approved. What they are looking to do is add additional parking to better service the tenants of 111 Ideation Way. They want to add 26 on-site spaces. They will be adding striping to help channel the traffic flow. They are also proposing a board-on-board fence along the residential property line to provide additional screening. There will be no additional encroachment into the residential areas. The 10 street spots will be for the sole use of 111 Ideation Way and signage will be put up. As part of the Redevelopment plan, the minimum parking is 498 spaces and we will be under that with 156. He stated that with this new parking plan all the tenants in the building have ample parking spaces, but they are looking into the future and the chance of company growth.

He stated that there are minor site improvements that they want make such as installing gates systems to prevent anyone from accidentally parking in 111 Ideation Way spaces. This is a City of Clifton issue. They are also proposing a small patio area that could accommodate a few tables for the tenants to use during lunch. The patio will be approximately 18’ x 31’ or 560 sq. ft. and there will also be a sidewalk connecting the patio to the parking field. Ms. Gonchar asked him to confirm that the proposed patio will be in the area of where the pilot plant was proposed and he replied, “Yes.”

He stated that they will be adding 136 linear feet of pipe to the current draining system with no change in the drainage pattern. Regarding utilities, he stated that the building does not currently have a gas service so the owners have asked them to include a gas line which will originate on Montclair Avenue and connect to the building on the north side. They are in discussions with PSE&G. Ms. Gonchar asked him to confirm that all other utilities are already available and operating at the building and he replied, "Yes."

Regarding lighting, he stated that there are nine existing poles and they will be upgrading the fixtures to LEDs. There will be five poles that they are going to be adding to the new parking layout and they will upgrade those fixtures as well. They will also be adding four new poles to ensure proper coverage and they will also be upgraded. These upgrades were provided to Mr. Hay and they are willing to work with him concerning any concerns he has. Regarding the landscaping plan, they will be planting an additional eight trees that will be strategically placed to satisfy the Redevelopment plan. He stated that this information has been provided to Mr. Ricci and they will be willing to work with him regarding any concerns he may have. He stated that they have tried to keep the existing buffer between On3 and the residential properties, but the gas line and parking changes caused them to remove a minor amount of trees. He brought up a conversation he had with Chief Cafone regarding Chief Cafone's letter dated 9/1/20. He stated that they have already started to address some of those concerns and will start working to comply with the others.

Commissioner Scarpelli asked how the new gate system will work with deliveries and visitors and Mr. Procanik answered that deliveries will go to the loading area off of Ideation Way and there are no gates there. Visitors will have a call button to identify themselves. Commissioner Scarpelli asked if the pine trees on Montclair Avenue will remain and Mr. Procanik answered that they are proposing to remove a few 7" Hollies and 8" Pines. They will try to remove only the smallest and unhealthiest trees and leave the healthy mature trees. Commissioner Scarpelli asked if the trees on the eastern side were going to be removed and Mr. Procanik answered that they provided a list of the trees that will be taken down and their sizes. Commissioner Scarpelli asked what the purpose of the new gas line was since there has been a R&D building there for many years and Mr. Procanik answered that he does not specifically know. Mr. Diaz stated that it is for one of the tenants that needs natural gas to provide heat to machinery for research and experiment purposes.

Mayor Tucci asked if the plan the residents of Montclair Avenue have been backing/supporting is the plan he has presented tonight and Mr. Procanik answered that it is.

Mr. Del Tufo asked how many parking spaces are required for this location and how many are being provided. Mr. Procanik answered 156 including the 10 street spaces. Mr. Del Tufo asked if the building was single or multi-tenant and he responded, "Multi." Mr. Del Tufo asked where the main entrance to the building was on the map and Mr. Procanik answered that there are two entrances, the one on the east side would be the main entrance. Mr. Del Tufo asked if the parking spaces by the main entrance would be reserved for executive or are they first come first serve, and Mr. Diaz replied that there really is not a main entrance because both entrances lead to

the central lobby and tenants use whatever entrance is closer to where they parked. He stated that there is no separate parking for executives. Mr. Del Tufo asked if the Fire Chief had a chance to review the fire truck turnaround exhibit and if he accepted it. Mr. Procanik answered that he did review it and agreed to it once they agreed to pave, stripe and curb that area.

Ms. Tangorra stated that she has a concern regarding tenants backing into the spots on Ideation Way. Mr. Procanik responded that they met with the Town Planner, Phil Abramson, and he strongly recommended that they do this. Ms. Tangorra asked if signage would be needed to direct people to back in only and Mr. Procanik answered that a standard sign would be posted.

Jaroslava Vonder – The Board accepted Ms. Vonder’s credentials as an expert in her field. She was asked to describe the existing lot and Ms. Vonder replied that the existing lot is 5.294 acres which was created by subdivision. There are now two lots, one with an existing building and 4.098 acres and the smaller lot is 1.2 acres. There is an existing easement on the larger lot, which is the skyway walk, and a proposed new easement for the gas main installation. Ms. Gonchar asked if she concurred that the two lots were designed in conformance with the minimum lot size requirement and Ms. Vonder replied, “Yes.” Ms. Gonchar asked if she agreed that there were going to be no improvement made to the 1.2 acre lot and that the lines drawn on the map show where the setbacks would be, and Ms. Vonder agreed.

Eugene Diaz – Ms. Gonchar asked if he could explain what other parking will be available to the tenants at this location because of an earlier question asked about the number of spaces that are required under the ordinance. He responded that a parking garage is being built in Clifton with 1,183 parking spaces, 200 of which have been allocated for 111 Ideation Way. Ms. Gonchar stated that for their variance case there is on-site parking, street spaces and an additional 200 garage spaces once the garage is built. Mr. Diaz stated that they should have the C of O at the end of September or early October.

David Novak - The Board accepted Mr. Novak’s credentials as an expert in his field. Ms. Gonchar asked Mr. Novak to confirm that Lot 1.05 is governed by the Redevelopment plan and Mr. Novak said that was accurate. She asked him to confirm that Ideation Way is part of Lot 1 in Block 300 and is in the MO zone and was previously approved, and Mr. Novak replied, “Yes, that is my understanding.” She asked if he could describe the relief they are seeking in terms of the parking and advise the Board, in his opinion, if the variance for the number of parking spaces can be granted consistent with the municipal land use law. Mr. Novak stated that they really require two different variances; the first would be from the provisions of the municipal land use law, the other is a variance from the Phase II plan. Regarding the parking variance, it can either be addressed as a C1 or a C2 test. C1 would be a public benefits test seeing whether the granting of the variance will advance the intent and purposes of the municipal land use law, and then seeing if the benefits will substantially outweigh any potential detriments. Then you need to look at the negative criteria to show that the variance can be granted without any detriment to the public good and it will not substantially impair the intent and purposes of the master plan and zoning ordinance. He stated that they are requesting the variance only out of an abundance of caution. They are not seeking a permit for a new building. The building has been there for years and is occupied. He stated that they need to meet the emergency access statute requirements for

emergency vehicles being able to access the building. He feels this has been done. Regarding the C2 variance, he feels that what has been proposed is a better layout than what was previously envisioned. Since the pilot plant is no longer an option, the proposed parking lots will be further away from the residential areas and far less expansive. Ms. Gonchar asked him if it was his testimony that the proposed plans are consistent with the terms of the Redevelopment plan and he replied, "Yes."

Mr. Malfitano asked what the grade difference is between the Montclair Avenue residents and the area he is talking about and Mr. Procanik replied it is relatively flat. Mr. Malfitano stated that a fence is definitely a positive for that kind of grading and Mr. Procanik replied, "Yes." Mr. Kozyra asked Mr. Novak to confirm that the minimum amount of parking spaces is 498 and he replied, "Yes." Mr. Kozyra asked if that was the lot that was subdivided into two separate lots and Mr. Novak replied that the 498 spaces would only be for 111 Ideation Way. Mr. Kozyra asked if the 498 was the Phase II requirement and Mr. Novak replied, "Yes, that is my understanding." Mr. Kozyra asked if any parking was allocated for the lot that is being subdivided and Ms. Gonchar replied that if a tenant wants approval to build a parking garage they are going to have to seek relief. There is no plan to put up a garage. Ms. Gonchar asked Mr. Kozyra if what he is concerned about it is the 1.2 acres that they are eliminating is based on square footage so whether that lot is part of this lot or not does not affect the parking requirement because that's based on the building the existing building. Mr. Kozyra replied that it does affect the future use of that subdivided lot. Ms. Gonchar stated that they do not know at the moment what current or new tenants are going to need regarding parking. Mr. Kozyra stated that this was something he was going to give to the Board professionals in order for them to prepare a report for review at the continuation of this hearing at the next meeting.

The Board agreed to end the hearing and pick up at the next meeting, September 16, 2020. Ms. Gonchar granted approval waiving the time constraints of this hearing until the next meeting.

Public Comments

None

Committee/Sub-Committee Reports

None

The meeting concluded at 10:25 p.m.

The next meeting is scheduled for Wednesday, September 16, 2020 at 7:00 p.m.