

REGULAR MEETING OF THE MONTVALE PLANNING BOARD

MINUTES

Tuesday, October 4, 2016 7:30pm

Council Chambers, 12 Mercedes Drive, 2nd Floor, Montvale, NJ

Please note: A curfew of 11:15 PM is strictly adhered to by the Board. No new matter involving an applicant will be started after 10:30 PM. At 10PM the Chairman will make a determination and advise applicants whether they will be heard. If an applicant cannot be heard because of the lateness of the hour, the matter will be carried over to the next regularly scheduled meeting.

PLEDGE OF ALLEGIANCE AND OPEN MEETING ACT STATEMENT: Chairman led everyone in the Pledge of Allegiance and read the Open meeting Act Statement.

ROLL CALL: Mr. Culhane, Mr. D 'Agostino, Mr. Fette, Mr. Lintner, Mr. Stefanelli, Mr. Teagno and Chairman DE Pinto

Absent: Councilman Weaver, Ms. Russo and Mayor Ghassali

Also Present: Ms. Hutter, Land Use Administrator, Mr. Regan, Board Attorney, Mr. Hipolit, Board Engineer

MISC. MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/

BOROUGH ENGINEER: Mr. Hipolit gave a brief overview of road improvements on the Shoppes of DePieros. Mr. Regan stated that the two cases are in the appellate one is for the ordinance and one is for the site plan related to the application. No oral argument date has been set yet. He believes that a hearing will not probably be scheduled until sometime in November. It may not have a resolution of the two cases from 2018. Mr. Cohen stated they will be posting the monies for the road improvements even though the litigation is still going on.

ZONING REPORT: Mr. Fette stated nothing to report. Chairman asked about the Shoppe's of DePiero has anything been started. Wegman's has all its approvals and has started construction. All six sites will be submitted shortly to get the footings in of the other buildings.. It will coincide with the actual Wegman's construction. Plans are to be in his office this month. Mr. Hipolit stated that the 50% of the work has been done. All the underground stuff has been done.

SITE PLAN REVIEW COMMITTEE: Mr. Stefanelli stated that the Shoppes of DePieros came in with the architectural change to Building F. It was decided it could be a field change through the building department.

ENVIRONMENTAL COMMISSION LIASION REPORT: no report

CORRESPONDENCE: placed on back table

DISCUSSION:

Block 708 Lot 8, Block 708 Lot 5 and 7-Request for corrective action concerning zoning interpretation of Block 708 Lot 8- 32 Walnut Street. Pearlmont LLC (Al Caggia)- Mr. Caggia came forward. He had produced in pieces a map from 1989 wherein the property was in the B1 zone. There is no documentation of other than the map to support this. Mr. Caggia stated he reached out to some of the local engineers and planners that have come before the board. He was able to obtain through Azzolini and Feury, Mr. Ricci's office, a copy of the said map. He would like a corrective action taken from the board to have it placed back into the B1 zone. Chairman asked Mr. Hipolit if he had an opportunity to review the zoning map and more in particularly the subject property and address the

property owners concerns about the current map not being reflective of what the zoning has been on his property. Mr. Hipolit stated that his office has taken a look at all of the maps going back to when Boswell took over from Lou Raimondi office. Mr. Hipolit stated he came about a year later after Boswell took over. The map that we have today is consistent from there forward showing it in the R15 zone. The borough has adopted many times renderings of the map as it is today going back to then in the 25 years. Mr. Regan asked going back to what date. Mr. Hipolit stated 1995. Every time there was a change moving forward the council has adopted it that way stated Mr. Hipolit. Chairman asked Mr. Caggia that in 1989 the maps reflected that the property was situated in the B1 zone. Mr. Hipolit in 1995 it states that it is in the residential property a portion of it is in the residential. The research of the records between 1989 and 1995 didn't produce anything with a resolution amending the zoning map. Ms. Hutter stated that not that she could find. Mr. Caggia stated he didn't find anything either that there was a change. He stated that it shows clearly on the map that the block line between the lots of 1 through 8 are all in the B1 zone it included lot 7 & 8. Chairman stated if you use logic, which is the only thing we have right now because of the lack of documentation to show the history of the property, or how the zoning changed between 1989 and 1995. It was either done in error, but he cannot believe that an error would have occurred and that someone would not have picked up on it. Mr. Caggia stated that his family has owned the property since 1924. Mr. Hipolit asked if he could get the Mylar of the map. Mr. Caggia stated he tried to get but they don't have it. Chairman said somehow the zone was changed between 1989 and 1995 it changed and we have no proof. It might have been an action by the borough but the board secretary states that she could not find anything showing that. Chairman stated that the property doesn't meet the bulk standards of either of those zones and it is only true value is if it were attached to lot 6 and 7. Mr. Stefanelli stated when lot 9 was being built which is a single family house. He believes that there was some litigation of moving the garage. Mr. Caggia stated if you take Kinderkamack Road and measure the lot of 7 you do not have the 100 feet and either does the other lot on Pearl St. The lot and garage that was there was preexisting. Chairman asked Mr. Fette about the issue of the zone recently came up because of what action in your department. Mr. Fette stated that there has been a commercial truck sitting on that property that doesn't work and it is registered and then not registered and a summons was issued because it is parked in a residential area according to his zoning maps. Mr. Fette stated he reiterates his position to the board that we should not be wasting our time on this. He has had nothing but problems with Mr. Caggia; he has been uncooperative to maintain properties, police reports on his desk, residents calling up about garbage in the street and on the property. He has summons out now, and he gets no cooperation, if this board is not going to take jurisdiction and recommend it to the town council he would hope that they put a stipulation in that until all of the summons are adjudicated that nothing be done. Chairman stated he understands and he appreciates Mr. Fette's responsibilities are and the obligation to the Borough. Chairman asked Mr. Caggia if they could agree between the board, himself and Mr. Fette that the board recommend to the governing body through the borough engineer that the maps be amended to correct what may have been some typographical error that occurred at some point between 1989 and 1995 in exchange for Mr. Caggia to cooperate with Mr. Fette with respect to the various summons and parking of vehicles within a reasonable period of time, would he find it acceptable resolution to all of this. Mr. Caggia stated that there is a gross mistake here in what Mr. Fette has said under oath. The lot that the truck is parked on is lot number 7 and it is not in any way on lot 8. He stated that Mr. Fette is out of order issuing these summons that have no bases of the fact. Mr. Regan stated that is not up to this board it is up to the Municipal Court, we are getting involved in something that we have no decision to make. Mr. Stefanelli interrupted and stated that he is a neighbor their and he agrees with Mr. Fette 100%, he would like to make a recommendation in order to move forward and to have his approval would be to make lot 8 with 6 and 7 to make them two hold lots. He would confer to the Mr. Hipolit on it. Mr. Stefanelli said that is only the way he could support anything. Chairman asked if they are in common ownership. Mr. Caggia stated that 8 stretches from 6 to 7. Chairman stated that they are trying to simplify this for everyone. Chairman stated that Mr. Fette has indicated that the properties to one extent or another are not being properly used or maintained. Mr. Fette stated that is correct. Mr. Fette stated the property needs clean up, constant weeds growing and not being trimmed, lawn not being cut, tenants leaving garbage around, equipment being left. Chairman asked Mr. Caggia if they put a timeline on it and he takes care of the property maintenance on the subject property and the planning board subject to the completion of that maintenance makes a recommendation to the governing body to amend the zoning map to reflect that the subject lot is within a commercial zone and that through an error possibly which we cannot clearly define when it may have occurred in the interest of settling this would he be willing to do this within the next 30 days. Mr. Caggia stated he has no objection to do that what is at the core area here is that Mr. Fette has interfered with the use of his properties. Chairman and Mr. Stefanelli stated to not go

down that road again that they are trying to resolve this. Mr. Regan stated to Mr. Caggia that they are trying to get this resolved and that the board is trying to bend over backwards to help him, the burden is on him to show that there is a mistake in the zoning map. Mr. Regan stated to him it is not clear and that enough evidence has not been shown. Mr. Caggia once again went back to the interference of the use of his property and not wanting the summons removed. Mr. Regan stated that the board is not dealing with it, and has no jurisdiction and that is a matter for the court. Chairman stated regardless of the zone designation a truck cannot be parked on any property overnight. Additional conversation ensued from Mr. Caggia disagreeing and the Chairman stated that he has tried to do what he could and without cooperation Mr. Caggia can go to court.

APPROVAL OF MINUTES: September 6, 2016- A motion to approve was made by Mr. D 'Agostino and seconded by Mr. Teagno, a roll call vote was taken with Mr. Culhane abstaining and all others voting aye.

September 20, 2016-A motion to approve was made by Mr. Stefanelli and seconded by Mr. Lintner; a roll call vote was taken with all stating aye.

USE PERMITS: Block 1601 Lot 18-Bozena Kolc d/b/a Dejavou Salon-6 Railroad Avenue-1400 sq. ft.- Chairman read the application into the record. Application is amended to read a change in the attorney. Richard D. Koppenaar, Esq., of Garfield represented the applicant. The application was amended on 5b to read 2. Mr. Stu Nixon was sworn in. The square footage was in question. 4e was changed to 11000 sq. ft. Mr. Fette stated she will need plumbing permit and a cco permit. A motion to approve was made by Mr. Teagno and seconded by Mr. D 'Agostino; a roll call vote was taken with all present voting aye.

PUBLIC HEARINGS (New) : none

PUBLIC HEARINGS (Con't): none

RESOLUTIONS:

OTHER BUSINESS:

OPEN MEETING TO THE PUBLIC:

ADJOURNMENT: A motion to adjourn was made by Mr. Stefanelli and seconded by Mr. D'Agostino, all in favor stating aye.

Next Regular Scheduled Meeting –October 18, 2016 at 7:30pm

Respectively submitted:

R. Lorraine Hutter