

**REGULAR MEETING OF THE MONTVALE PLANNING BOARD**

**MINUTES**

**Tuesday, November 21, 2017 - 7:30pm**

**Council Chambers, 12 Mercedes Drive, 2<sup>nd</sup> 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 lead everyone in the Pledge of Allegiance. He read the Open Meeting Act statement into the record.

**ROLL CALL:**

**Present:** Mr. Culhane, Mr. Lintner, Mr. D'Agostino. Ms. O'Neil, Mr. Stefanelli, Mr. Teagno, Mayor Ghassali, Councilman Weaver and Chairman DePinto

**Absent:** Ms. Russo and Mr. Fette

**Also Present:** Mr. Regan, Board Attorney, Ms. Green, Borough Planner, Mr. Hipolit, Board Engineer, Mr. Edwards, Special Counsel

**MISC. MATTERS RAISED BY BOARD MEMBERS/BOARD ATTORNEY/**

**BOROUGH ENGINEER:** none

**ZONING REPORT:** none

**SITE PLAN REVIEW COMMITTEE:** Mr. Stefanelli gave his report. Three applicants 1102 Lot 2 Pike Development-came in regard to 110 Summit Avenue and the assisted living housing in the space. It is by the substation off of Summit Avenue. The third applicant was Ridgecrest Redevelopment, 21 Philips Parkway they are also looking at senior assisted living. They have some lot issues that they are dealing with as well.

Hearth and Tap came in for a storage shed. They are tight on space so they are going to have to take up a parking space. They will go directly through the building department.

**REGIONAL PLANNING COMMITTEE REPORT:** They have not met since our last meeting.

**ENVIRONMENTAL COMMISSION LIASION REPORT:** Mr. Teagno stated that they went over ideas for the Swim club field and center of town. They also received information back from the Mayor and Council on the tree ordinance and revisions were discussed.

**CORRESPONDENCE:** placed on back table

**DISCUSSION:**

1. Affordable Housing Resolution for Funds-Maser Consulting-Darlene Green Funding for Darlene Green-Affordable Housing was discussed. Chairman read it into the record. A motion to approve the funds was made by Mr. Stefanelli and seconded by Mr. D 'Agostino with Councilman Weaver voting no and all others voting yes.

**Settlement Agreement-**Chairman gave an overview. They had invited Mike Edwards an attorney from Jeff Surenian's firm who worked with the Governing Body along with the Borough attorney, as well as Bob Regan. Mayor Ghassali stated that that last Tuesday as everyone is aware of, the Montvale Council approved a settlement agreement with Fair Share Housing which included settlements with the developers, intervenors, which 3 of them are listed. It included a comprehensive overlay zoning plan for the business district in the downtown. He stated that they worked close to three years on this. In his opinion they exhausted all options. The final option that they didn't want was for Judge Tosko's to make the decision for us and if he was to do that we would lose full control of our zoning and planning rights. It would be an invitation to single family lots to turn into developments of multi-families. He believes that this agreement secures the best solution. They hired the best of the best Mayor Ghassali stated. He spoke about 2025 and voting in the right law makers. With all of this we will have approximately 700 additional units coming on line within the next 3 to 5 years. He believes that the planning board is by far the most important board in

town right now with a much higher responsibility to make sure that we maintain the character of the town and maintain the status.

They are working with the school system to make sure that there is enough room as well. He commended all the Council members for working really hard and thanked the Chairman, Planners, Engineers and Attorneys who helped along the way. He stated it was one of the most stressful times of his career going through this and he thanked everyone for their support in helping.

Chairman DePinto gave a brief description and introduction for Mr. Edwards. He stated that even though they are not required by law to open it up to the public for comments or questions that he would do that because he believes it is an appropriate thing to do because it is important for all of us to have our voices heard.

Chairman made an announcement in regard to two items on the agenda. A new public hearing on block 2501 Lot 11 Robert Boyle and Nancy Wilson of 1 Fairview Avenue for an Variance Application, the applicant has requested it be carried to December 19<sup>th</sup>. The continued public hearing on Block 2002 Lot 14, Tonelli Development Corporation, Minor Subdivision and Zoning Variance Relief, Amended Site Plan on 20 Spring Valley Road. The applicant has requested to be carried to December 5<sup>th</sup>. No further notice will be required.

- **A&P Settlement Agreement-2 Paragon Drive-**Mr. Edwards gave an overview of the agreement. The settlement agreements fit into a bigger picture stated Mr. Edwards. The use will be for townhouses for sale units on 20 acres of which 14 are buildable, they propose building 80 units and 16 will be affordable. It is a low density number of 6 to the acre. Chairman asked if any board members had any questions. No one having any, a motion to open to the public was made by Mr. D'Agostino and seconded by Ms. O'Neil. Ms. Debra Stephans came forward she stated she was here in regard to the Tonelli project. The chairman stated that this was not the appropriate time to speak on that topic it will be at the end of the meeting when he opens to the public. No one else from the public wishing to be heard, a motion to close was made by Mr. Culhane and seconded by Mr. Stefanelli with all voting aye.
- **Hornrock Settlement Agreement-Sony Drive-**Mr. Edwards gave a summary. He stated that this property had a formal intervenor. They settled for rental units instead of for sale which is different. It calls for 185 total units with 37 of them being affordable. Those 37 will comply with UHAC and will count as credits towards the Borough's affordable housing obligations along with any applicable bonus rental credits. The 37 units represent a 20% set aside which is above what is typically required in rental use so there is a benefit to getting a high set aside in so far as it produces a surplus. – Mr. Culhane stated in the other resolutions there are perimeters to the site, in this resolution he doesn't see anything except a concept site plan and elevation. What will be the perimeters of the site? Mr. Edwards stated because of the time crunch in this case they weren't able to negotiate an ordinance prior to the settlement agreement. Those negotiations are ongoing. He is hoping to schedule a meeting with various professionals to iron out some of the issues. He stated that they do have a concept plan with some planning requirements in the settlement agreements in itself. It is not nailed down as conceptually as A&P or Mercedes Benz but they do have a good idea of what the framework will look like stated Mr. Edwards. Mr. Regan, board attorney, added that isn't unusual in the settlement of Mt. Laurel litigation. Ultimately there will be an amendment to the Master Plan and Housing Element and that will be followed by an amendment to the Zoning Ordinance which will require public hearings. It will outline with specificity the land development requirements for the site.  
Mr. Teagno asked about Park Ridge. Mr. Edwards stated that he could not speak for Park Ridge. He knows that there has been litigation with Park Ridge. He stated that they were just hired as a consultant for only their Fair Share numbers. Mr. Culhane asked about the density compared to Park Ridge. Mr. Edwards stated he couldn't answer the questions.. Mr. Culhane asked if there was any information on the towns that went to court for the final determination versus a negotiated settlement. Mr. Regan stated that only a very few have gone that route. South Brunswick is the only fully and decided case, they ended up with an affordable obligation of 3100 units. Mr. Edwards stated that there are 7 builders remedy lawsuits. Another case is pending before Judge Jacobson, he was told that the decision was going to be in Decision and there are only a few more days left and they haven't heard as of yet. That involves Princeton, West Windsor and one other town in Mercer County. Mr. Edwards stated that the Borough has settled at a lower number than what the expert applied so the incentive to go to trial on the Fair Share was no incentive at all. A motion to open to the public was made by Mr. Teagno and seconded by Mr. Culhane. No one from the public wishing to be

heard a motion to close was made by Ms. O'Neil and seconded by Mr. Culhane. Mr. Stefanelli asked Ms. Green about the density and the number. The number is 26 to the acre stated Ms. Green. Mr. Stefanelli stated that it is way more than any other and now an ordinance is going to be written, how do we not have it set a precedent for the rest of the town. Ms. Green stated he is correct, however, that they are working very hard on the language in the settlement document that talks about the planning rational that we have adopted in looking for site to satisfy our affordable housing obligation and the key principal that we have adopted in all these settlements is that the first and foremost goal is to protect our existing single detached neighborhoods. The planning rational is as one gets closer to the single family detached residential neighborhoods the density scale and height of any inclusionary would reduce. That was part of the planning rational stated Ms. Green. They don't want others to say me too. If you measure the Sony property to the nearest Borough single family detached neighborhood it is over 2200 feet away. Mr. Stefanelli stated he doesn't have a problem with it there because it is the outskirts and very few people know it is there. He is concerned that it is going to set a precedents and he believe 26 to the acre is a lot and he is uncomfortable with it.

The Master Plan Amendment is being written stated Mr. Regan, it does articulate the lists the reasons why the density of the site. You cannot find a site in Montvale that is more remote from single family homes stated Mr. Regan. Mr. Edwards stated that the Special Master was accepted to the rational and appreciates what we are trying to do as we scale back density as we approach single family areas. When you look at the A&P property it shows the rational of what they are trying to accomplish stated Mr. Edwards.

**Resolution-** A motion to introduce was made by Mr. Teagno and seconded by Mr. Culhane. A roll call vote was taken with Councilman Weaver voting no and all others voting aye.

- **Hekemian/Mercedes Benz Settlement Agreement-** Mr. Edwards gave a brief summary of the three sites. It is different from the other two settlement agreements. This is a mixed used site. Residential use there will be 308 rental units on Mercedes Benz and 44 will be for affordable housing and 42 units on the Glenview Site and 9 will be affordable to low and moderate. The units on Glenview can be for sale or rentals. There are commercial use, hotel of 150 rooms and retail use as well on the One and Three Mercedes Site. Mr. Culhane asked about the plan being attached is it written in stone. Mr. Regan stated it is a draft. He asked why the developer was given an option for sale or rent. Councilman Weaver asked about Page 9-3 and 4 he asked him to expand on the parentheses of any reduction can be at the sole discretion, how does that impact the Borough's affordable housing obligation. Mr. Edwards stated that the provision states that any reduction of density would have to be theirs, we don't have the discretion to lower the density that would impact it but there would still be a 15% set aside so it would reduce the affordable housing yield on the project. So then isn't the Borough negatively impacted by what are obligation would be determined to be asked Councilman Weaver. Mr. Edwards stated that the RDP is set on the project density such to the extent that there was a planning rational or impediment of the additional units you would have an argument to be correspondently reduced because it is not realistic to yield the RDP on that particular site. Councilman Weaver asked then why would we agree to it as a Council. He doesn't understand the language in it. Mr. Edwards stated as it is currently drafted the ordinance and the concept plan, the planners and professional that the use could yield 350 units. It is standard language in any settlement agreement stated Mr. Edward. He believes there is no impediment to the development of 350 units but he is not the planner so he referred it to Ms. Green. Councilman Weaver asked does this mean the Borough has an excess of 44 units. Mr. Edwards stated that was correct. Mr. Weaver asked shouldn't the developer change their plan and build less units then build less affordable would we be forced to use the surplus to account for any reduction in what the developer and the Borough have already agreed to? Mr. Edwards stated that the RDP is predicated upon the project yield so your surplus is a product of both your RDP and the amount of credits you have towards that RDP to the extent that you reduce the RDP and the Surplus in a corresponding fashion you would be treading water at that point. Mr. Edwards stated that the current RDP is 181 units, if the RDP associated with that site went from 70 to 60 you would have an RDP of 171 units or you would have an argument for that. So if you were to get a lesser yield your surplus would remain the same. Mr. Edwards stated that the RDP stands for Realistic Development Potential, so whatever is ultimately possible on the site which is really supposed to be based on the highest practical density, so to the extent that the highest is 350 currently it is 20 % of the number or 70 units. So if it turned out that the highest practical density turned out to be 300 the RDP associated with the site would be 60.

A motion to open to the public was Ms. O'Neill and seconded by Mr. Stefanelli. All in favor stating aye. Debra Stephans of Bayberry drive came forward and asked about the hotel. Mr. Regan stated that they don't

have any definitive information except that it would be a permitted use. Ms. Stephan asked is there a definite hotel being placed there or is it a possibility. Mr. Regan stated it is a possibility. Ms. Stephan asked if there is a time frame given to the developer. Mr. Regan stated no. Once the Ordinance is in affect they can make an application for Site Plan Approval. A motion to close was made by Mr. Culhane and seconded by Mr. Teagno. A motion to introduce was made by Mr. Culhane and seconded by Mr. Teagno. A question from Councilman Weaver in regard to page 5, c.. d. 1, asking about the listing of a grocery store under item number 8. Didn't we open a grocery store across the street? Mr. Edwards stated it would most likely be a smaller type market that was discussed. Councilman Weaver stated that it doesn't stated that there could not be another large grocery store. Mr. Edwards stated it does not. Mr. Regan stated he would be shocked if the owner of the Mercedes property would be willing to have a substantial grocery store in view of his ownership across the street. Councilman Weaver stated he didn't ask for an opinion he is just asking for what it says. Mr. Edwards stated it is a permitted use. A roll call vote was taken with Councilman Weaver stated no and all others voting yes.

For Information Only-Fair Share Settlement Agreement-On the declaratory judgment. Mr. Edwards stated that this is your new construction number for round 3. The EConsult retained by the Borough along with 300 municipalities states it is 548 new units. Dr. David Kinsey who represents the methodology expert for Fair Share Housing Center stated that our obligation was 774 units. We were able to settle at 542 units which is 6 units less that our own expert said. The Borough however doesn't have sufficient land to construct so the Borough is entitled to what is called a vacant land adjustment which brings the number to 181. The 181 becomes the RDP, Realistic Development Potential. As to the RDP you have an obligation to create an opportunity for the construction of the 181 units between now and 2025. The residual portion which 361 has a lesser standard. There is a Round 2 obligation of 225 units, we satisfied the obligation and created a 24 units surplus to apply toward the 181 unit Round 3 RDP. You take the 24 in surplus and give or take 150 units from these three agrees that are on the agenda tonight you basically achieved your Round 3 RDP. There are also a number of projects already approved in town that generate some surplus for us stated Mr. Edwards. The benefit of the 44 units surplus is that if there was another Sony or A&P we would be able to apply it to that redevelopment site for inclusionary development. There is a softer standard to the 361 units. You make your reasonable efforts toward addressing that portion of obligation which is referred to as Unmet Need. With the overlay zoning and the mandatory set a side ordinance. Mr. Edwards stated that the Mandatory Set Aside Ordinance simply says that if the Borough permits multifamily development somewhere they will have to capture affordable housing set aside with it. The overlay zoning leaves a little bit less discretion. You have to put an option or an overlay a given site. Then they would have an as of right use. In this case for mixed use between 12 to 15 units per acre this would occur at the current Annie Sez site and in addition to the southeast B1 zone. The settlement agreement is subject to a Fair Share Housing Hearing which is scheduled for January 25<sup>th</sup>. Assuming that goes off without a hitch the Judge says the agreement is fair and reasonable to low and moderate income households, which all indications lean that he will rule that way. Mr. Edwards stated then the next step for the Borough that this would serve as a foundation for a Housing Element and Fair Share Plan. That Housing Element and Fair Share Plan will be subject to a Compliance hearing. If it is deemed compliant then you would get a Judgment of Compliance which will give the Borough immunity from builders remedy litigation from now until 2025. Mr. Regan complimented the governing body and the planning board and the professionals, Mr. Edwards, Mr. Surenian and Ms. Green and Mr. Hipolit for all the work that they have done on it. He has been involved in a number of these proceedings and it isn't easy stated Mr. Regan. No one up here likes it, and no one on the governing body likes it unfortunately these are the cards that the municipalities have been dealt by the Judiciary and Legislator and shame on them. Montvale has dealt with it in a responsible manner. Chairman asked for a motion to open to the public was made by Mr. Teagno and seconded by Mr. Culhane. No one from the public wishing to be heard then a motion to close was made by Mr. Culhane and seconded by Mr. Teagno with all stating aye. Chairman DePinto thanked Mr. Edwards and Mr. Surenian has put into these settlement agreements. Chairman stated that the governing body made an excellent selection in choosing Mr. Surenian and his firm. He also thanked Ms. Green, Mr. Voytus, Mr. Hipolit and Mr. Regan for a great job.

#### **APPROVAL OF MINUTES: October 17, 2017-carried**



## **USE PERMITS:**

1. **Block 2701 Lot 3-JZRM Reports-85 Chestnut Ridge Road-1358 sq. ft.- MS. Kathryn Walsh, came forward and stated that the applicant is withdrawing his application.**
2. **Block 2701 Lot 3-Insight Strategies Group, LLC-85 Chestnut Ridge Road- 1644 sq. ft.-** Ms. Kathryn Walsh, Esq. came forward representing the applicant. Ms. Maureen Wilner came forward representing Insight Strategies Group, LLC. Chairman read the application into the record. Signatures were verified. Floor plan was attached along with the zip code. Ms. Wilner stated that they are a Boutique staffing firm. They go to other offices so not many visitors. It does placement of CFO, and Financing placement. They skype or facetime with the applicants. 5a. number changed to 3, 5b. was corrected. Chairman stated that they will have to file an application for a CCO and building department for the permits. A motion to approve was made by Mr. Stefanelli and seconded by Mr. Teagno. A roll call vote was taken with all stating aye.
3. **Block 3201 Lot 5-Executive Vehicle Leasing Corp.-25 Philips Parkway-720 sq. ft.-** Ms. Janice Gatto represented the applicant, Chett Friedman. Chairman read the application into the record. Mr. Friedman stated it is an Executive leasing firm and will be used for administrative office. Everything is done on the internet. There are 3 employees, signatures were verified. A motion to approve was made by Mr. Stefanelli and seconded by Mr. Teagno. A roll call vote was taken with all stating aye.
4. **Block 2802 Lot 2 (C001A)-Beets Juice Bar-Mercedes and Grand Avenue-1300 sq. ft.-**Mr. Del Vecchio came forward representing the applicant. Ms. Jessica Piatt was the applicant. Change to the application were addressed.. An address was added to 4c. 16 Farm View. Chairman read the application into the record. Signatures were read. Ms. Piatt gave a brief overview. Juice bar and smoothies and other food items will be sold. They will be open 7 days. Chairman stated that they will need a CCO inspection and permits for the build out. Zip codes will be submitted at a later date once employees have been hired. Mr. Weaver asked about the strategy of hiring employees, are they hired yet or is she in the process of. Ms. Piatt stated that some have been hired and she had hired at her Park Ridge location. Councilman Weaver asked if any advertising of hiring of employees. Ms. Piatt stated yes. Councilman Weaver stated that the only reason he brings it up that he had a conversation this past weekend with another tenant on the site who expressed some frustration about being able to advertise so maybe that is something we can discuss separate from the application.  
A motion to have the board attorney prepare a resolution of approval was made by Mr. Stefanelli and seconded by Mr. D' Agostino. A roll call vote was taken with all stating aye. The sign was next discussed. Mr. Del Vecchio stated that both signs have the same logo and message. Sign is within the maximum of the ordinance. The letters are white channeled and the beet is a burgundy color. Chairman asked Mr. Del Vecchio about the illumination of the signs with Mr. Hekemian. He said they are in the process of working it out. Chairman stated that the Habit Burger was still illuminated after it was closed. Mr. Hipolit stated that he has been in contact with the owners management about the lighting on the walkway and Mercedes Drive. Mr. Del Vecchio stated he will bring it to Mr. Dreisse's attention. A motion to approve the sign was made by Mr. Stefanelli and seconded by Ms. O'Neill with all stating aye.
5. **Block 3201 Lot 5-AWA Realty LLC-25 Philips Parkway-(850 sq. ft.)-**Mr. Adam Kessler represented the applicant Mr. Weingarten. Chairman read the application into the record. Mr. Kessler stated that 5b. number of parking spaces was changed to 3. 5c. was changed to 3 as well. They need to supply the board secretary with the zip codes and the police department report. Mr. Weingarten stated that they are a Property Management Company with on line based business.. Lot was changed to just state Lot 5. Hours are 9 to 5 Monday to Friday. They do Residential properties management. Mr. Eichhorn was sworn in by Mr. Regan he is a representative of the own and he verified the Signatures. The properties they manage are in Newark, Bloomfield, Montclair and other areas of north Jersey. They will have to apply for a CCO in the building department Chairman stated.

Chairman also asked them if they were occupying space without a CCO. They stated they have not occupied any space. A motion to approve was made by Ms. O'Neil and seconded by Mr. D' Agostino with all voting aye.

**PUBLIC HEARINGS (New) : Block 2501 Lot 11-Robert Boyle and Nancy Wilson-1 Fairview Avenue-Variance Application-at the applicant's request this public hearing is being carried to December 19<sup>th</sup>.**

**PUBLIC HEARINGS: (Con't)**

**M**

- 1. Block 2002 Lot 14-Tonelli Development Corp.**-20 Spring Valley Road-Minor Subdivision, Zoning Variance Application (D), Amended Site Plan Application-Request by Applicant to Bifurcate Application-at the applicant's request this public hearing is being carried to December 5<sup>th</sup>.

**RESOLUTIONS:**

- 2. Block 2904 Lot 4 –Bank of America**-80 Chestnut Ridge Road-Amended Site Plan Application -ADA Upgrades, Landscaping and Parking-Mr. Regan went over the changes. A motion to approve was made by Mr. Lintner and seconded by Mr. Stefanelli. A roll call vote was taken with Chairman DePinto abstaining and all others stating aye.

**OTHER BUSINESS:**

**OPEN MEETING TO THE PUBLIC:** A motion to open to the public was made by Mr. Stefanelli and seconded Mr. Culhane. All in favor stating aye.

Debra Stephans-Bayberry Drive came forward. She stated she was there for the Tonelli Development on 20 Spring Valley Road. It has been an application that has been pending since or around July of 2017 it has been completely dormant since September 5<sup>th</sup>. There have been several carries and adjournments made. As of late on November 17<sup>th</sup> an adjournment request was made on the number of items, she quoted on the Agenda for this evening. She asked why the board was allowing 20 Spring Valley Road to carry so many times. She wants to know why this board hasn't asked for the application to be dismissed for lack of prosecution. She stated that it has been repeatedly delayed and delayed. She believes it is completely inappropriate. The chairman asked Mr. Regan if there was any issues with carrying. Mr. Regan stated that the board has discretion to grant extension of time within a hearing of an application. After reviewing the file he stated we are on the third version of plans for this application and it might have something to do with it as well. He said the agenda was quite length and he didn't think any of us expected that the Settlement Agreement specifically with allowing public comments would be done so soon. There were four different items in connection with the various Mt. Laurel cases and he believes everyone expected to be here for hours. Ms. Stephans said again she is going to move that this board dismiss this case for lack of prosecution under the rules of 1:13-7. This is a matter that has been pending since July 2017. She said it is inexcusable that this hasn't been heard before this board. Mr. Regan stated that it has been heard before the board. There has been at least two public hearings and it is not unusual to grant extension to an applicant. Mr. Regan stated he has been the attorney for this board since 1993, and the board has never denied an applicant a request for an extension. He has represented planning boards in Bergen County continuously since 1985 and no board has not granted an extension of time. There is no prejudice to the board in granting such an extension. Mr. Regan said he sees no problem with it. Ms. Stephans stated that is absolutely in correct that there have been boards that have dismissed case for lack of procession. There are numerous boards that have done so and it is rather curious that this board has not done so. I can understand a carry of one or two times, she is an attorney as well she stated-you ask for extensions repeatedly but this has been since September 5<sup>th</sup> and we are now in November and it is being carried to December and who knows if it is going to continue that way. She wants to make a record that this is again been carried. Councilman Weaver stated what are the bases of thinking that we would be here for hours? Mr. Regan stated that it is not his rational that the applicant looked at the agenda and knowing what the items were he assumed that the applicant took the idea or thought it would be a substantial amount of time. Mr. Regan stated he also thought it would be longer but he didn't have any communication with their attorney on what the amount of

time it would be. Councilman Weaver asked Mr. Regan did he think we would be here for hours. Mr. Regan stated yes and obviously the applicant did as well as they made the request. Ms. Stephans had a follow up, what were the prior excuses. Mr. Regan stated that at least one had to do with a revision to the plan. Chairman stated that we do have the letters dating back to August 9, requesting it be carried with no reason. The second letter came September 29, it states that they are in receipt of Ms. Green's Planning Report and with respect to the variance relief requested the applicant will be seeking the board's consideration not only of the use variance requested, but the bulk variances also. Mr. Cascino will be present to testify as to all variances required so the Board has a complete understanding of the impact of the project. We will be prepared to present Mr. Cascino's testimony on Tuesday, October 3, 2017. Third letter dated October 2 to board secretary stated that due to unforeseen circumstances, they were asking for an adjournment to the next meeting of October 17, 2017. . Fourth letter dated October 16<sup>th</sup>; applicant requested a carry to November 21<sup>st</sup> due to witness availability. Lastly, letter dated November 17, 2017 was a request due to the number of items on the agenda this evening; I am requesting that the matter be adjourned to the Board's next meeting date of December 5, 2017. They were all signed by Brian M. Chewcaskie. Mayor asked if there was a statute or limit to how many times someone can postpone. Mr. Regan stated that the only provision of time is if the developer demands if the board adheres to the time period in the MLUL. Mr. Regan stated for example if an application for Site Plan Approval required a variance the board has 120 days to be complete. There is nothing on extension of time. Ms. Stephans stated that there is no prejudice if the board dismisses the action. Mr. Regan stated that there is no prejudice if the board extends the application to another meeting. Ms. Stephans stated that the action should be dismissed and then they can come forward and reapply the whole entire application. Mr. Regan asked if she wanted them to be an intervener in the Borough Mt. Laurel's litigation. Ms. Stephans stated no. She is talking about this action. Ms. Stephans said that the board is allowing that this be carried and carried an obvious tact for delay. Mr. Regan stated that she stated she is an attorney and if she thinks the board is acting illegally she should petition the Superior Court Judge to have the application dismissed. Mr. Regan stated that is too hard. Councilman Weaver asked what the comment that it is too hard is. Mr. Regan stated that it is hard to do to go down to Superior Court in Hackensack. A motion to close was made by Ms. O'Neil and Seconded by Mr. D'Agostino.

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

**Next Regular Scheduled Meeting** –December 5, 2017

**Respectively submitted:**

**R. Lorraine Hutter, Land Use Administrator**