

Hoboken, New Jersey, December 10, 2014

The Planning Board Subdivision and Site Plan Review was held on the above date in the Council Chambers of City Hall at 94 Washington Street, Hoboken, New Jersey 07030. Meeting was called to order by Chairman Gary Holtzman at 7:14 p.m. with recitation of compliance with the provisions of the Open Public Meetings Act of the State of New Jersey.

BOARD MEMBERS PRESENT:

Chairman Gary Holtzman, Commissioner Frank Magaletta, Commissioner Dan Weaver

Also present were: Mr. Andrew Hipolit, Planning Board Engineer; Mr. Dave Roberts, Planning Board Planner; Mr. Dennis Galvin, Planning Board Attorney; Ms. Patricia Carcone, Planning Board Secretary

122 WILLOW AVENUE

Block 33, Lot 23

Applicant: Castelo Properties, LLC

Major Site Plan Review

Attorney: Robert C. Matule

Architect: Minervini Vandermark

Robert C. Matule, Applicant's Attorney, appeared on behalf of the Applicant and stated this was a reprise of the application for 122 Willow Avenue. He stated Applicant was at the Board previously and the Board had requested the Applicant look at some things like moving some of air handling equipment up to the upper roofs and wanted a little more information concerning the back yard and rear elevation of the building. He believes Mr. Minervini has addressed those.

Mr. Matule stated that one of the principals of the Applicant was also present, Joseph Castelo and stated they have handed out a brochure to give a sense of the flavor of the type of small cotteria (phonetic) operation the Application is contemplating.

Chairman Holtzman asked Mr. Minervini to speak of specific changes that were made.

Mr. Minervini stated that listed on the top part of the part of the drawing, sheet G-1, the 14 changes that were made. He said that this was an antique bakery that they are proposing to convert to a bakery and

restaurant. It is currently designed for 85 occupants, but that number would have to be approved by the construction office.

With regard to the changes relative to the last meeting, Mr. Minervini stated they were asked to demarcate where the non-residential uses are in the surrounding buildings, surrounding block. On Z-1, properties that are within 200 feet, in the drawing on the left part of the sheet, each of the non-residential uses are shown with a black triangle.

Mr. Minervini commented that a note is to be added that the second floor of the building and third floor, which are residential spaces, are not to be constructed as part of the proposal. They are not constructing there and they were asked to make that more clear and the note is on the bottom of sheet Z-1.

Mr. Minervini stated that tree planting detail, which did not conform with the Shade Tree Commission's latest requirements, has been revised on sheet Z-3, top left corner. He commented in addition a note has been added that there will be no outdoor speakers on Z-3 as well and that originally Z-5 had the existing gas and electric meter kept in the same location as they were and they have since been relocated to the first floor hallway.

Mr. Minervini went on to state there is an existing loading zone directly in front of the building. A note has been made on Z-3 that that will remain. He said that on change seven, originally they had designed, which is shown on the right hand side of elevation sheet Z-35, on the northern part of the facade a glass garage door to have a direct connection to the exterior. They have since come to understand that that would require a variance, so it has been changed to no longer be an operable garage door, but will be a fixed panel window with a swing door within it that will just be for service access, there will be no entry or exit of customers.

Mr. Minervini stated for change eight a schematic section detail of the rear addition has been added and sheet Z-4 shows the building as it exists now with a small yard. They are proposing to in-fill that with a walk in cool box. He added that on sheet Z-5 is the information regarding the pre-fabricated panels for the

walk in box and the construction and the height of that concrete block and brick section.

Mr. Minervini continued down the list of changes to number 10 and noted that the cellar will be for storage only, no kitchen work will be there. He stated for number 11, the condenser for the commercial unit has moved from the lower roof to the upper roof of the building, which is the third floor section, as the thought was that would minimize sound transmitted to the adjacent properties as well as the residential units in this building.

Mr. Minervini stated with regard to number 12 more kitchen make-up detail has been provided and for number 13, a new sheet, Z-6, showing a roof plan which was not on the initial set of drawings.

Mr. Minervini commented that site photos were moved from sheet Z-6 to Z-7, which was not requested by the Board, just as a result of how the plan logistically worked out.

Chairman Holtzman asked if there were additions on the report since Mr. Minervini and Mr. Matule were having conversations about the parking and could they tell the Board what the thoughts were on that.

Mr. Minervini stated that the question had to do with the comment at the last meeting that there was parking required based on the square footage and the seating, but because the property was less than 50 wide it is not allowed to have any parking on the premises. Their conversation was to what extent these types of neighborhood retail uses would be required to have parking or not, as most of these properties don't have room for parking.

Mr. Minervini stated he had not seen any exemption for parking and thought religious institutions have certain parking requirements and anything less than that does not require them to have any parking. He thinks the relief is required, but he understands from Mr. Matule they are with walking distance of a public parking garage and believes Mr. Matule will address it in that way.

Mr. Hipolit stated the main point in their letter was the fact that there was concern for the walk-in freezer and the equipment associated with the walk-in freezer

because there would be an extension of the building out into the yard and there would be some issues with that. He stated he also noted in his letter there's a lot of detail provided on the equipment from the kitchen, but nothing with regard to the equipment on top of the walk-in freezer so that was one the things he suggested they address.

Chairman Holtzman stated the Applicant covered the issue of the condenser for the HVAC, which sort of falls into the same category.

Mr. Matule said he would have to address that.

Chairman Holtzman asked Mr. Matule what the ruling was on the parking.

Mr. Matule stated the point he was raising was that in all zones on lots less than 50 feet wide curb cuts are not permitted and it was his understanding that where parking is not allowed one does not have to ask for a parking variance.

Mr. Galvin stated that restaurants require them and that they should act conservatively and require the variance. He stated he did not think it was going to be a deal killer in this situation.

Mr. Roberts stated he believed they are within 800 feet of a public parking garage, but will have to do some measuring and they could then participate in the park and shop program, but the Applicant is also planning on having some kind of valet service that can be offered by way of mitigation of the variance.

Mr. Galvin stated if that's the way Dave sees it, every time we have an interesting restaurant that's part of the walkability of Hoboken they're not going to be able to provide parking, but they are going to need this parking variance unless at some point this is fixed. He thinks that there's a logic that it is not the suburbs and we don't need to have a parking lot here to get people in.

Mr. Galvin said one logical solution would be since the ordinance only allows these retail spaces for less than 1,000 square feet, if you had an exemption for parking for anything less than 1,000 square feet it would cover all the retail uses in the residential zone as

conforming.

Chairman Holtzman stated that may be something they can fix. He stated they will figure out what the parking load is going to be and change the zoning.

Mr. Galvin stated the other possible route is interpretation for the zoning board which he thinks is non-economical.

Chairman Holtzman agreed. He stated the Applicant could go to the Zoning Board and request an interpretation of the two competing ordinance provisions and let them decide which one has precedence or whether or not variances would be required, as the Planning Board cannot make that determination.

There was a discussion as to if the zoning variance was part of an application the Board had some discretion to make a determination as to whether or not a variance should be granted.

Chairman Holtzman stated they did not as to whether or not there's a variance. He spoke of a case in Wayne that had to do with a storage facility where the Planning Board made determination it was a permitted use in the zone and the Court said that the Planning Board was wrong, but the Court did not reverse the determination. The ruling holds the Planning Board can make some interpretations of the ordinance, but as to the things that go to jurisdiction or to whether something is a variance, it is to be done by the Zoning Board.

Chairman Holtzman stated in this instance on the question of whether or not this variance is required, if the Board made that interpretation and it were to be appealed, he feels the Board would be at risk.

Mr. Matule stated it sounds like a variance needs to be granted.

Chairman Holtzman replied he was saying in the absence of the Zoning Board saying it is not necessary, it is necessary. He stated it is a neighborhood restaurant that the Applicant is going to want to have. He stated he did not want to offer an opinion, but he thinks the Commissioners would entertain testimony as to the items that Mr. Matule laid out.

Mr. Matule commented that in Fort Lee when you can't provide parking, you pay into fund.

Mr. Hipolit commented Hoboken did not have an ordinance for that.

Mr. Galvin stated there are multiple layers of problems included even for things they do want to get improvements on, they haven't really gotten authorization from the local finance board down in Trenton to create that kind of escrow. They want to be able to do that and it should be done for some things. The problem with the parking is similar to if you can not put in a street tree, you should be able to contribute to the street tree fund so it can be put it somewhere, but it is very advanced and we are not ready to get there yet.

Mr. Matule stated the application is going to say they are requesting a parking variance for whatever the one per 16 square feet requires, but what they will offer by way of mitigation is participating in the park and shop program and having a valet service on weekends. He stated they hope it will be a walking destination for the majority of the customers.

Mr. Galvin commented there are approvals for a parking garage right down the street across from the Jefferson Trust. The gentleman is a client of Mr. Galvin's and the only reason they are holding up starting that is they are waiting to see what the Newman letter redevelopment plan is going to be because they might have the opportunity to put some residential above the parking. He stated if that comes to fruition, it will be probably two years before it's ready to start accepting cars, but it will be right down the street.

It was noted that the question will be if they build residential above that, they will have to service their own residents as well as everybody else.

Mr. Galvin stated this was a 500 and some unit parking garage. He added they have a contractual obligation with Jefferson Trust to provide 100 spaces, but it is going to be a mechanical garage so they will be able to pack the cars in, it is not a self-park.

Mr. Roberts stated the biggest issue that was in the original plan was to have occupied food prep in the

basement cellar, which was a concern and because they moved all that upstairs and the cellar is just for storage. That issue that was raised in their last letter has been resolved.

Chairman Holtzman asked Mr. Minervini if he met with the flood plan administration and he replied that he had met with her.

Mr. Hipolit stated he also spoken with the flood plan administration.

Chairman Holtzman asked Mr. Hipolit if he had a second letter as well.

Mr. Hipolit stated he had a first letter with a couple of questions regarding one, how is handicap accessibility being handled.

Mr. Minervini stated the construction office in a situation like this does not require a ramp to be provided since the elevation change is minimal, in this case one step of eight inches or so. He stated if they had to, they could accommodate a ramp within the first section where the front door is and further back they could play with the elevation there.

Mr. Hipolit stated he was not challenging the construction code official, but he's not sure that meets federal code.

Mr. Minervini stated it has been described to him that conditions like this where it is the rehab code that the construction office has jurisdiction and can make their own judgments. He stated the Applicant can accommodate and play with the elevation in terms of a ramp if the construction office tells them to.

Mr. Hipolit referred to a conversation regarding the smoke barrel and because it is law subject to interpretation, the Board can not give the Applicant permission and say it's okay to not comply with the law and it is their professional risk. Mr. Hipolit stated that he counsels that with a renovation which is this extensive that not putting in the ramp is not something that we could tell you could do. He stated in the end they should put a ramp in.

Mr. Minervini stated they have a larger sidewalk and have an accessory hallway that allowed for that condition to happen and the construction officer in that case agreed with him that they didn't need the ramp there. He agreed that it is not a simple revision and would suggest, if everyone agrees, the professionals for the Applicant will have to conform with whatever the construction official requires which should be what the code is.

Mr. Hipolit stated he understood, but he thinks they should have the interpretation of the applicability of the ADA.

Mr. Minervini stated he would be happy to get an interpretation from the DCA.

Mr. Galvin stated we cannot give the Applicant anything on this, it is something that the full Board is going to consider because the Board might say, as in the other case, that they want you to comply.

Mr. Minervini stated he will have an interpretation one way or the other at that meeting. He state he would also go to the DCA and get an interpretation from Bob Austin and they will give him a letter.

Chairman Holtzman asked Mr. Minervini to come up with a plan B should the commissioners decide that a ramp is in order to which Mr. Minervini agreed.

Mr. Hipolit asked about the grease trap for the site.

Mr Minervini stated it hasn't been designed as yet, it will happen during the construction phase, on the drawing phase.

Mr. Hipolit then asked Mr. Minervini if they are proposing wall lights on the entry point and how were the wall lights chosen and what is the intensity.

Mr. Minervini replied that the idea when speaking of intensity is to wash the wall, it's not meant to light the site. The lights are more decorative.

Mr. Hipolit asked if a the liminare are shielded and that he did not believe they were on the smokehouse.

Mr. Minervini stated yes they are shielded and are

shown on sheet Z-3, but they may not have built what he drew it.

Mr. Hipolit inquired about signage and details for signage.

Mr. Minervini said they noted that signage will be a certain percentage.

Mr. Hipolit stated the reason he asked that question is that there is another application in front of the Board for signature and the application came in saying they were going to conform with the signs and don't need anything from the Board, but when their plans came for signature, they now show signs on that were not part of the application.

Mr. Minervini stated they are showing a sign and he can give a dimensional detail to make it easier to understand.

Mr. Hipolit inquired about existing utilities and modifications.

Mr. Minervini replied he thinks there has been modification. He stated the chances are they are going to need new gas lines, but not the sanitary or the water, but certainly the gas.

Mr. Hipolit stated he thought they needed to put a note in their plan that they will investigate that. He then asked what type of work is envisioned in the sidewalk, curbs.

Mr. Minervini stated the plan isn't to replace the sidewalk, as it is not in bad condition, but he will make that clear.

Mr. Hipolit stated if they are going to fix the sidewalk, give a detail for it. He believes they do have an existing curb cut.

Mr. Minervini stated there is an existing curb cut which they are going to keep as part of their drop off area. He stated Mr. Matule pointed out they were calling for a new sidewalk, but that's not necessary and he will revise that.

Mr. Hipolit stated they are putting in a tree pit.

Chairman Holtzman stated the tree pit needs to be in compliance and allows water to get to the tree.

Mr. Minervini stated they have revised that.

Chairman Holtzman stated someone needs to make a judgment call on the issue of the curb cut and if there is no garage anymore, it is not needed and that parking space is supposed to go back to the city.

Mr. Minervini stated they could apply to the city counsel for a loading zone there and he could make not that is part of our plan. Until that happens they can use it.

Mr. Hipolit stated that was really a new sidewalk and they will need testimony on the condition of the sidewalk.

Mr. Minervini stated he would bring in photographs.

Mr. Hipolit stated it makes for a more level walkable surface and if they wish to put tables out there, they would probably want it more level. He asked about other approvals needed, county, treatment works approval, ADD approvals.

Mr. Minervini stated they do not need soil erosion and does not believe they need treatment works, but will confirm with them.

Mr. Hipolit asked if Mr. Minervini knew what the flow was going to be in and Mr. Minervini stated he did not.

Mr. Hipolit asked if they need county approval and Mr. Minervini stated they did. In summary they need county approval, maybe treatment works approval on flow and they may need some type of DEP approval based on plan elevations, etcetera. They do not need soil erosion. They may need the regular building permits for the site, as there is some difficulty regarding the site with wet proofing versus dry proofing.

Ms. Ann Holtzman, the Flood Plan Administrator, in her review states because their fit out exceeds \$100 a square foot, it is considered a substantial improvement which puts them into wet proofing. Although initially she thought wet proofing was adequate, after speaking

with FEMA stated it must be dry proofed. Mr. Hipolit stated to accomplish that the sidewalk/cellar must be eliminated, provide certification that the cellar foundation walls can withstand the hyper-static pressure from long term saturation. Also a water tight flood barrier between the residential hallway and the commercial space, as the residential hallway cannot be dry proofed or blocked by a flood barrier.

There was discussion about what is required for flood proofing and being able to get occupants out. They discussed other things needed for flood proofing and if not feasible, the Applicant can request a variance from the flood code through the Planning Board.

Mr. Hipolit also stated in Ann's review there were minor comments about things missing from the elevation certificate and it needs to be filled out and completed. She also wants interior elevations for the utility connections to show it is above 13 and not at 11. The review commented that the tree pit should not be curved or elevated unless grates and a storm water collecting system was being integrated into the tree pit. Other comments were regarding a PVC roof membrane reflecting too much light, the air handlers height, and what else is up on the roof with the condenser.

Mr. Castelo asked if Ann is issuing a written report.

Mr. Hipolit replied she would have done it in this case, but she doesn't not have time. Mr. Hipolit stated Ann and he discussed that about 60 percent of the building is standing room only, 40 percent is bar seating and should this be considered a bar application versus a restaurant application as more people are standing versus sitting. Mr. commented he thought this was more a restaurant and this distinction should be brought up.

Mr. Minervini stated that on sheet Z-4 the majority of the spaces are seating area. He stated in terms of the overall area they are much closer to being a restaurant.

A discussion followed regarding bar versus restaurant.

Chairman Holtzman stated to Mr. Matule that he needed testimony on these issues and that would be a good time

to also hear from the Applicants themselves. Mr. Hipolit stated to summarize everything in his letter and Ann's letter, the two biggest issues the Applicant has is the dry proofing and the discussion of how you can do that and how it affects your operations and the other issue is the handicap accessibility issue.

Mr. Minervini said regarding the handicap accessibility issue, they can put a ramp in.

Mr. Castelo stated he had given Ann packages on three other matters because a checklist item is reviewed by the flood plan administrator and Pat Carcone has asked if they have anything from him. Mr. Castelo is assuming they are now going to get into a process where they will have a formal report that will be part of the file.

Mr. Hipolit stated he has told Ann she can give short or minor comments to him and he will include them in his letter or testify to them at this meeting. He will e-mail the comments to Mr. Minervini.

Chairman Holtzman stated that they have legislation that is moving forward to change that so it becomes part of the check list item and that is why this interim completion board has been so focused on this, because they don't want people to go down the path of designing something to only have to circle back around to unbuild it and re-design it.

Mr. Hipolit stated the city has a CRS rating now and they need to protect it and by not meeting the flood requirements of FEMA, they get to a certain point where they're dropping a step. He stated in Hoboken's case if they drop a step often, everybody's flood insurance will go up five percent. That is why they need a really good reason for a variance.

Mr. Weaver stated for the mushroom fan or the exhaust fan and the makeup, plus the walk-in box they need to have an acoustic person look at this. He asked if they could have a cellar door or sidewalk door if it was flood proof.

Mr. Hipolit stated because needed to be dry proofed, they can not have. He stated dry proofing means you can not let any water in at all, as in submarine door.

A discussion follows about whether a submarine type door is permitted by FEMA. Mr. Minervini will find out. They then discussed the elevations as it impacted were the meters would have to go and the height of the flood wall.

Mr. Weaver asked about the existing oven and what it is going to be used for.

Mr. Minervini stated they were re-using it.

Mr. Castelo added it's a 100 year-old cooking oven.

Mr. Weaver stated then there will be cooking fumes and it is not the same use as it is now, since they will be cooking in it.

Mr. Castelo stated they would be baking bread in that oven.

A discussion followed about whether they would need a precipitator or not. It was discussed that an electrostatic precipitator is a filter system that washes any fumes from cooking. It was decided this should be addressed.

Mr. Weaver asked why they would need a variance if they had a roll up glass door garage.

Mr. Minervini stated the zoning officer said in the regulations no opening connections of a certain size allowed in the restaurant/bar use within a residential area.

Chairman Holtzman stated there are substantial issues having to do with floor plan management that need to be overcome, but other than that it seems like they are pretty close. He asked if the outstanding flood plan issues are substantial enough that this needs to be deemed an incomplete application.

Mr. Hipolit stated it depends on whether the Applicant says they do not believe dry proofing should be done or they say they agree to the dry proofing, but have to modify their plans substantially to do that or not. He stated if the plans are going to stay the way they are with some minor modifications, he thinks they are fine to deal with the flood plan manager and then come to a full hearing, but if there is a major flood plan

modification, the Board should see it.

Mr. Minervini thinks they should be given the opportunity to speak with Ann and hopefully keep the design as it is. If not, then they will be back to this subcommittee.

It was decided to proceed. A discussion followed as to deeming the application complete or incomplete. It was decided to deem it incomplete. It will be put on for the January SSP. If the flood issue is worked out, it will be deemed complete and put on for February.

All were in favor.

411 MONROE STREET

Applicant: Aurora Hoboken Realty Two, LLC

Architect: George Weiner, Gail Architectural Services

Chairman Holtzman stated the Board received a notice from Gail Architectural Services which is the office of Architect George Weiner (phonetic). And this regarding 411 Monroe Street referencing a withdrawal of application. Mr. Weiner's client, Aurora Hoboken Realty Two, LLC is withdrawing their application for the proposed project at 411 Monroe Street.

Mr. Weaver asked if the Architect had the authority to withdraw for the Applicant. Mr. Galvin stated they should have the Applicant or the attorney withdraw, that the architect can not.

800 MONROE

Chairman Holtzman asked if any of the board professionals had heard from anyone on this application other than Kevin Cokely's (phonetic) letter of objections.

Mr. Galvin stated he would send a letter to Mr. Cokely stating he is not the redeveloper and does not have jurisdiction.

Chairman Holtzman stated to be specific, nobody has received any information from this Applicant that would ameliorate any of the open issues that deemed the application incomplete.

Mr. Galvin stated that unless the Applicant has

appointed a redeveloper, they do not have the ability to come before the Board and without the appointment of a redeveloper, the Board does not have jurisdiction.

Chairman Holtzman stated that since no additional information has been sent, they should deem the application incomplete again. A discussion followed and it was decided it should be deemed incomplete due to jurisdiction and failure to provide content.

All were in favor.

OTHER ISSUE

Mr. Hipolit stated Mr. Minervini mentioned a problem with the execution of the plans as presented to the Board by the smoke barrel or smoke house, there was talk of a tree that wasn't put in. He stated this will come up again because the new Applicant or another Applicant is making promises that they will do certain things and the Board sometimes comes up against technical hurdles where the building code official has said they can't do something and it seemed the building code official would override what the Board had chosen.

A discussion followed as to the problem and what should the Applicant do.

Mr. Galvin said in the situation where the Board wants a provision and the county says no, then the Applicant must return to the Board and say they cannot comply due to the county's decision. He stated Board has two options, one they can extend the condition and two, the by the city officials not sending it back to the Board thus the Board was deprived of the opportunity to revise the flow.

Mr. Galvin suggested that Pat talk with Brandi (phonetic) and then Brandi could go to Ann to verify the conditions of approval.

Chairman Holtzman stated the Board needs to go through proper channels with regard to 122 Willow. A discussion followed.

Chairman Holtzman summarized that the Board heard testimony from the architect (Mr. Minervini) that was an architect for a previous Applicant at the Smoke and Barrel and he testified or said, it was not specific as

to what Mr. Minervini said, that there were inconsistencies between his plan and the final product that got built. So the Board would like to have the zoning officer go and visit the location to make sure that it is within compliance of the resolution that the Board passed.

A discussion was had regarding resolution compliance in applications and not signing off on plans until all conditions have been met. They discussed the signing of plans by the zoning officer and others.

ADJOURNMENT

There being no further business to attend to the meeting was adjourned at 08:36:50.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jennifer Wilson". The signature is written in black ink and is positioned above the typed name of the company.

AudioEdge Transcription, LLC