

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 25, 2016

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Delia, Mr. Sylvester and Mr. Mustacchi. Mr. Siburn and Mr. Nappi were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Adoption of Resolutions

App.#1-16: Ronnie & Emilie Nieves, 25 Liberty Ave., Block 2004, Lot 2 (R-15 Zone)

The application #32-14 for additions to the house was approved by the Board of Adjustment on May 28, 2015, and memorialized by Resolution on July 23, 2015. A new application is being submitted due to a change in plans which calls for demolishing the existing house and constructing a new home on the lot. Variances are needed for a) insufficient front yard setbacks on both Wardle and Liberty Avenues (corner lot); b) rear yard setback; c) building coverage and d) total lot coverage. Nonconforming issues include lot area and lot depth.

A motion was made by Mr. Smith, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

App.#26-15: New York SMSA Limited Partnership d/b/a Verizon Wireless, 200 Connell Drive, Block 4301, Lot 1.011 (OR-B Zone)

Applicant is seeking to construct a wireless communications facility on the roof of the office building located at 200 Connell Drive. The facility will consist of twelve panel antennas arranged in three arrays of four antennas each. Two of the arrays will be placed behind stealth screening, and the third array will be mounted to an existing penthouse and painted to match the color of the penthouse façade. A use variance is requested, as wireless communications facilities are not permitted in the OR-B Zone. In addition, a height variance is requested to permit the antenna and equipment screening to extend to seventy feet, which is the same height as the existing rooftop penthouse. (The OR-B Zone has a height limitation of fifty-five feet, and the roof of the building is already at a height of fifty-nine feet.)

A motion was made by Mr. Miller, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Delia and Mr. Mustacchi voting in favor and none opposed.

Adoption of Minutes

January 28, 2016 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Mustacchi, and carried by unanimous voice vote to adopt the minutes of the January 28, 2016 Regular Meeting as presented.

Applications for Review:

App.#9-15: 569 Springfield Avenue, LLC, 569 Springfield Ave., Bl. 610, L. 8 (HB-3 Zone)

The applicant is seeking preliminary and final site plan approval of seven residential two-story townhomes, split between two buildings. (The existing single family dwelling will be demolished.) Relief is needed from Section 6.3.3(A)(4)(c) relating to an increase in density. Other variances are also being requested including a variance and waivers pertaining to the size of the required parking spaces and bulk variances for insufficient rear yard setback and exceeding other coverage limits. All variances and waivers are described in detail in the application documents.

August Santore, attorney for the applicant, stated that this is a continuance of the hearing of the application.

Robert Gazzale, Engineer, previously sworn, presented the most recent plans and discussed the changes in the plans including the increase in the rear yard setback to 18', removal of the overhang for the rear building, elimination of 1' from each of the parking spaces, movement of the front building forward by 1', and reduction of the driveway slope so the back building is 2' lower than it was previously. Mr. Gazzale also stated that the bulk of the retaining wall on Springfield Avenue has been eliminated and the height of the remaining wall is now 4½'. Two parking spaces have been added so a variance is no longer required for parking and all parking is now located on site. Some of the plantings have been modified and in the rear building two units were increased to 26' width to eliminate a variance. The buildings will comply with the height ordinance. A variance will be required for other coverage.

In response to questions from the Board, Mr. Gazzale stated that the courtyard will remain the same and the landscaping area in the rear will be larger. The back property line is 18' higher than Springfield Avenue and there is no retaining wall proposed in the back of the property. The proposed height of the building is 2' lower than previously proposed. The grass area in the back is fairly flat and the neighboring properties slope down to the applicant's property.

With respect to the reports from the Environmental Commission and the Beautification Committee, Mr. Gazzale stated that the applicant will comply with their recommendations.

In response to further questions, Mr. Gazzale stated that the plantings will be guaranteed for five years and the homeowners' association by-laws will include provision for the permanent maintenance of the plantings. Snow will be cleared from the driveway and main road first and then a loader will come in and remove the snow from the property. The height of the trees along the rear property will be 10' at planting.

Mr. Gazzale further stated that he has met with the Fire Department and he believes he satisfied their requirements. The outdoor lighting will be typical shoebox style lights. The applicant is proposing to remove 13 trees on site and will replace 13 trees. They will comply with the tree replacement ordinance which may require contribution for trees that cannot be placed on the property. With respect to the large pine tree located in the middle of the property, Mr. Gazzale expressed the opinion that it would be cost prohibitive to attempt to relocate the tree and the likelihood that it would survive is slim.

Open to Public

The hearing was opened to the public for questions regarding Mr. Gazzale's testimony.

Jun Hu, 161 Washington Street, asked if the applicant considered shifting the pipe from one side to the other to make more room in the front. He stated that he does not think there is enough distance in the sight triangle and asked why there is a difference in measurement.

Mr. Gazzale said the shifting of the pipe was considered but there is a row of oak trees along the property line that would be endangered by the pipe. The difference in measurement depends on whether a right or left turn is being made. Springfield Avenue is flat and straight so it is not an issue and the applicant has obtained approval from Union County for this access.

Scarlett Doyle, professional planner representing Marie Scharmberg, asked questions regarding the rear yard setback and the landscaping proposed in the rear.

Mr. Gazzale stated that the rear yard setback will be 18', landscaping is proposed along the property line with trees and shrubs that will be 10' in height.

Mr. Santore advised that prior to the meeting his client, Mr. Coletta, the applicant's architect and he met with the Beautification Committee representative to discuss some changes to the plans.

Robert Coletta, architect, previously sworn, discussed the changes in the plan. On the street side the retaining wall has been eliminated on 2/3 of the front of the building and in lieu of the wall there will be landscaping. There will be shrubbery and privacy fencing between the units. The front building remains the same although the Beautification Committee has requested that the fake balconies be removed and the applicant has agreed to do so. Another difference is that the units are not coming out on grade from the basement.

Mr. Coletta presented Exhibit A-1/2016 – renderings of the view of the proposed development from a car traveling down Springfield Avenue and Exhibit A-2/2016 photo board with those renderings and an additional rendering of the view from the middle of the street. He stated that the Beautification Committee asked that the stone veneer be brought up halfway and the siding moved down and the applicant has agreed to do that. The

applicant has also agreed to remove the balconies and put in windows and to change the color of the roof and the siding. The Beautification Committee will be providing samples.

With respect to the discussion as to the definition of “story” and determination of how many stories are in the proposed buildings, Mr. Coletta discussed the definition and stated that the proposed buildings have a cellar level that consists of uninhabitable space with mechanical equipment that is not considered a story. The garage and utility room are not inhabitable space. The living level and sleep level are stories. Under the ordinance a three story building is acceptable if the third story is hidden within the attic space. What is proposed is a non-story, living level, sleeping level and attic space within the roof space.

Mr. Santore requested that the Board rule on the applicant's request for relief on any perception or objection as to the number of stories.

With regard to the back building, Mr. Coletta stated that there are four units and the two in the middle are now 26' wide which meets the zoning. The applicant previously asked for a variance and now the units have been changed to eliminate variances. The two end units are required to be 30' and they are 24' so a variance is being requested. Based on input from the Board and Mr. Mistretta the applicant has eliminated the cantilevers from the end units. The overall look of the back building is less foundation, less steps and now the entire building in the back is approximately 2' lower. This will make it less visible for the houses behind. The entrances remain the same.

Mr. Coletta presented Exhibit A-3/2016 – photo board and Exhibit A-4/2016 – handout of the photos on A-3 showing the conceptual interior view of the open floor plan of the units.

Julie Lloyd, Beautification Committee, previously sworn, reviewed the changes that the applicant agreed to at their discussion prior to the meeting, including color of siding, roof, trim and stone. They also discussed the removal of the fake balconies, the pavers and lampposts. With these changes she believes the building will look nice and be consistent with the downtown district standards.

Mr. Mistretta suggested that the right side of the building match the left side and the applicant was amenable to that recommendation. Mr. Coletta stated that the applicant will work with Mr. Mistretta and the Beautification Committee on this issue.

Discussion took place regarding the roof leaders, drains and gutters that will be located on the side of the building. Mr. Mistretta recommended that those items be more decorative. Mr. Santore stated that the applicant will commit to colors that will blend in.

Open to Public

The hearing was opened to the public for questions regarding Mr. Coletta's testimony. There were no members of the public who had comments or questions.

The hearing was opened to the public for questions or comments with regard to the application.

Sue Seto, 139 Washington Street, was sworn, and stated that she has concerns and noted that many of the neighbors did not know about this project. She is concerned that people living in the new townhouses will be looking into her neighbors' yards. She is also concerned about traffic and the safety of children walking to and from school. She also expressed concern about there not being enough room for snow plowing, icing problems that could result when the snow melts, whether the townhouses will actually sell for the \$500,000 proposed and the effect of this development on the neighbors' property values.

Marie Schaumberg, 153 Washington Street, previously sworn, presented Exhibit S-1/2016 - photos of the neighborhood to go along with her testimony. Ms. Schaumberg asked that the Board recognize that a massive three story building will significantly impact the residential neighborhood on Washington Street. Ms. Schaumberg discussed the recent Enrite gas station application for a canopy that was denied, and compared this application to Enrite in its impact on the character of the neighborhood. She expressed the opinion that what is proposed is a three story building with a walk-out basement that will not fit in with the neighborhood. This will be a very tall building with an aerial view of her property.

Ms. Schaumberg further stated that the Board should consider the low density goals of the Master Plan and other goals of the Master Plan that are not met by this development. She stated the opinion that these structures will not fit into the neighborhood and they will impair the neighbors' line of vision to Springfield Avenue. The effect of this development on the neighborhood and the streetscape will be the same as was proposed in the Enrite application and

approval of this project will change the neighborhood significantly. Ms. Schaumberg also stated that alternative plans have been proposed that would fit the neighborhood better and would not create buildings that will tower over the neighborhood. She presented Exhibit S-2/2016 – other proposals.

Ann Imbimbo, 100 Forest Avenue, was sworn and stated that she is speaking for Nicole Schaumberg, Washington Street who has laryngitis. Ms. Schaumberg was sworn and asked the Board if Ms. Imbimbo could read her testimony. Ms. Imbimbo read the comments provided by Ms. Schaumberg in which she commented on the visual impact of this project from Springfield Avenue. Ms. Schaumberg presented Exhibits I-1 and I-2 – photographs showing the view from her cousin's house at 90 Station Street. Ms. Schaumberg also stated that she is concerned about the parking and the problem of people having to park on the street and walk up to the building. In her opinion the proposed buildings do not fit in with the rest of the neighborhood and the applicant is attempting to put too much on the property. This should be redesigned so that it will not affect the quality of life of the people in the area.

Mr. Santore responded to the public comments with regard to the alternate plans and discussed why they would not be acceptable. He stated that what is on the property now is a dilapidated old structure which will be taken down. Townhouses are permitted in this zone and the applicant has redesigned the project many times based on input from the Board, the public and the Beautification Committee. The Enrite application involved an accessory structure and there is no basis for comparing the two applications. The project is the result of a great deal of hard work with a lot of input and will be a massive improvement to the site.

Mr. Mistretta reviewed the requested variances and the buffering requirements under the ordinance.

Board Discussion

Mr. Siburn noted that the Board's concerns about the application have been addressed.

Mr. Sylvester also stated that the applicant has addressed what the Board wanted and he is in favor of the application.

Mr. Smith stated that the application has improved and the appearance from Springfield Avenue is better. The grade in the rear of the building has been dropped and the project has become something he would support.

Mr. Mustacchi stated that he thinks the concerns of the Board and the public have been addressed and this will be an improvement to the property.

Mr. Delia said he sympathizes with the neighbors and appreciates that the applicant tried to increase the rear yard setback and address the other issues raised by the neighbors.

Mr. Miller stated that he believes the applicant has done as much as possible to satisfy the neighbors and that the Beautification Committee spent a lot of time on the project and it will look good. He thinks it will be a nice development.

Mr. Sullivan thanked the applicant and the professionals for the number of hours spend on this project and he also thanked the members of the public for expressing their concerns.

Mr. Bernstein reviewed the conditions of approval that would be included in a resolution of approval of the application.

Mr. Mistretta noted that it is critical that the height of the buildings be limited to what has been presented in view of the fact that the ordinance permits 36' height.

A motion was made by Mr. Smith, seconded by Mr. Mustacchi, with respect to App#9-15: 569 Springfield Avenue, LLC, 569 Springfield Ave., Bl. 610, L. 8 (HB-3 Zone) to approve the application with requested variances, subject to the conditions discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 7-0 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Delia, Mr. Mustacchi and Mr. Sylvester voting in favor and none opposed.

Adjournment:

A motion was made by Mr. Siburn, seconded by Mr. Sylvester, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 10:00 PM.

Regina Giardina, Secretary Pro Tem