

## MINUTES

### BOARD OF ADJUSTMENT

### TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Conference and Regular Meeting

July 14, 2016

The Conference and 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. Boyer, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia, Mr. Sylvester and Mr. Mustacchi. Mr. Bernstein, Board Attorney, was present.

#### Adoption of Minutes

June 23, 2016 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Smith, and carried 7-0 to adopt the minutes of the June 23, 2016 Regular Meeting as presented.

#### Adoption of Resolution:

#### App.#10-16: Hemal & Snehaben Vakharia, 40 Pine Grove Road, Bl. 2201, L. 6 (R-15 Zone)

The applicant is proposing to construct a deck, 16' x 24' x approx. 8' high, with a deck connection to an existing side yard porch having stairs to grade. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because one side yard setback for the deck will be less than the 12' required by ordinance, and the combined side yard setbacks will be less than the 30' required. Nonconforming issues are lot area, lot width and principal front yard setback.

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

**Applications for Review:**

**App.#13-16: Jeffrey Gold, 15 Overhill Way, Block 3505, Lot 8 (R-20 Zone)**

Proposed new portico (approx. 8' x 6' in size) to be constructed over existing front porch. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for insufficient front yard setback. (Required setback: 50'; existing: 40.4'; proposed: 40.4')

The applicant was not present. The applicant arrived after the start of the hearing of the next application and requested that his application be carried. The application was carried to the Regular Meeting of the Board to be held on September 22, 2016.

**App.#11-16: Berkeley Development Company, L.P., 390-400 Springfield Avenue,**

**Block 701, Lots 2 & 3 (and to be known as Lots 2.01 and 3.01) (DD-Zone)**

Proposed rehabilitation of existing Shopping Plaza ground sign in order to display the name of the shopping plaza and the names of multiple tenants. Variances are required for height of the sign from grade, maximum sign width, maximum sign height, maximum sign square footage and an increase in sign content in order to display multiple tenant names on the sign. Applicant will also seek any and all other variances, design waivers, or special exceptions as may be required upon review of the application by the Board and its professionals.

Wendy Berger, attorney for the applicant, stated that the shopping center is located on Springfield Avenue, is almost 13 acres in size and contains five buildings. What is proposed is a change to the existing free standing sign in the front of the property that has been in this location since 1965. The applicant is proposing a more attractive sign with improved identification of the tenants. The applicant has received and considered reports containing suggestions from the Board Planner, the zoning officer and the Beautification Committee and the applicant's Planner will address how those suggestions can be accommodated.

Michael Mistretta, Township Planner, was sworn.

Kevin Page, Planner, was sworn and accepted as an expert witness. Mr. Page stated that he has done a great deal of work on this shopping center and is familiar with it. This is a substantial piece of property with 600' of frontage along Springfield Avenue, 680' of frontage along Lone Pine Drive and 600' of frontage along Snyder Avenue. The main building is set back 450' off of Springfield Avenue. The CVS building and the Post Office building in the front of the property block the view of the buildings in the rear.

Mr. Page presented Exhibits A-1 – A-4 – photographs of the existing signage on the property and reviewed the existing signs for CVS and the rest of the tenants of the shopping center. He stated that the proposed sign will be the same width and height as the existing pylon sign with the only change being the addition of the pediment on top that contains the name of the shopping center. There will be two columns and a brick pedestal at the bottom that will match the CVS sign. The proposed sign will be internally illuminated. Mr. Page presented Exhibit A-5 – rendering of the proposed sign that includes the decorative cap on the top as suggested by the Beautification Committee.

In response to questions from the Board with regard to the application being driven by the smaller tenants and why the Stop & Shop, CVS and Pet Supplies Plus signs are larger than those being proposed for the smaller tenants, Ms. Berger stated that the sign is proposed to be located within the lease line of CVS and the size and prominence of the sign panels meet the requirements of the CVS, Stop & Shop and Pet Supplies Plus leases as to size and location.

Discussion took place with regard to the amount of signage that presently exists for CVS and it was noted that the signage was reviewed and approved by the Planning Board.

Ms. Berger stated that since the CVS building has been on the property the tenants in the back have experienced problems with visibility and have come to the Landlord requesting the proposed signage.

Further discussion took place regarding the size and placement of the CVS, Stop & Shop and Pet Supplies Plus signage as compared to what is proposed for the smaller tenants.

In response to questions regarding the correlation between speed and sign size, Mr. Page stated that a motorist needs to see the sign well in advance so they can change lanes. The speed at which the motorist is travelling would influence the size of the lettering.

Mr. Bernstein asked if the applicant has reviewed the Resolution of approval and the plans from 1965 with regard to the existing sign. Ms. Berger stated that she does not have a copy of the prior Resolution but there have been no violations cited with regard to the existing sign.

**Open to Public**

The hearing was opened to the public for questions with regard to Mr. Page's testimony. There were no members of the public who had questions.

Gary Albrecht, Esq. was sworn and stated that he represented the applicant in the negotiation of lease amendments with CVS and he is familiar with the lease. Mr. Albrecht discussed the constraints upon the Landlord due to the provisions of the leases with Pet Supplies Plus, Stop & Shop and CVS. He stated that if those tenants cannot be accommodated then the sign would have to be left as it presently exists.

In response to questions regarding the lease provisions of the larger tenants, Mr. Albrecht stated that according to their lease Pet Supplies Plus must have the top position and a minimum sign size of 96" x 24". The CVS sign must be as provided in their lease and the Stop & Shop sign must be the same as CVS. The existing CVS signage was approved by the Planning Board. He does not believe there are any specifications in the leases with regard to lighting of the signs.

Ms. Berger stated that the applicant can provide a chart containing the lease information and the leases will be reviewed as to lighting. The applicant is requesting that the sign be internally lit.

In response to questions regarding the design of the sign, Mr. Page stated that the pillars were included in the design because they were structurally necessary.

Ms. Berger stated that in view of the questions raised by the Board she believes it would be best for the applicant's professionals to prepare a revised drawing that will provide correct and accurate information and for the hearing to be carried to a future date. She said there are tenants present who can speak tonight or come back to the next meeting.

Mr. Miller suggested that the applicant have a mock-up of the proposed sign erected at the property so the Board members can get an idea of what is proposed.

Stephen Grivalski, representative of Sound A Rama, was sworn, and stated that he has worked on numerous signs in New Jersey and other states. Mr. Grivalski described the condition of the existing sign and the construction of the proposed sign. He stated that the existing sign is falling apart and financially it makes sense to remove it and replace it with a new sign. Mr. Grivalski also discussed the difference between internal illumination and external lighting. He said that internal lighting is dimmable and external is not. The brightness would be whatever the town requires. He has done mock-ups for other towns and would be able to do the same for this sign.

Mr. Mistretta stated that if the applicant is going to have a brand new sign he would recommend that the sign professionals review the recently adopted design standards in order to have the sign conform to them. There might also be a change in the variances and waivers that will be required.

Mr. Bernstein recommended that the applicant provide the Board with the relevant sections of the tenant leases dealing with signage.

Mr. Albrecht stated that the leases might have confidentially provisions and he will check to see if those can be provided.

Mr. Mistretta asked that the applicant provide an as-built of the existing sign that shows dimensions and lighting.

Discussion took place with regard to carrying the hearing to the Conference Meeting of October 13 and the Regular Meeting of October 27. The mock-up of the proposed sign will be erected during the first week of October.

### **Open to Public**

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

Tenants of the shopping center including Ann Christensen from Massage Envy, Donald Parkin from Goodman's Deli, and Yuilani Wahyud from East Restaurant, were sworn and discussed the problems they have had with visibility before and after the CVS was built. They stated that they receive numerous calls from potential customers who are not able to find their location. They further stated that they would not object to the anchor tenants having larger signs and believe that any sign is better than no sign. They would like the sign to be well lit and high enough to be visible.

The hearing of the application was carried to the Conference Meeting on October 13, 2016 and the Regular Meeting on October 27, 2016 with no further notice required. Ms. Berger stated that the applicant will grant an extension.

**Adjournment:**

A motion was made by Mr. Boyer, seconded by Mr. Nappi, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 10:05 PM.

Regina Giardina, Secretary Pro Tem