

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD

MEETING MINUTES – THURSDAY, JUNE 25, 2015

Mr. Virgona called the meeting to order at 7:30 p.m. The following statement was read:
Pursuant to The Open Public Meetings Act P.L. 1975, Chapter 231, proper notice of this meeting has been provided to The Record and The Ridgewood News on December 23, 2014 at which time the date, time, place and purpose of the meeting was set forth and notice was posted on the official bulletin board in the Borough Hall.

PLEDGE OF ALLEGIANCE

Present: Mr. Virgona, Mr. Polizzi, Mayor Minichetti, Councilman DeBerardine, Mr. Preusch, Mr. Bakal, Mr. Richardi, Mr. Stutman, Mr. Wortmann, Mr. Jacobs

Absent: Mr. Donato, Ms. Rosenthal

Also Present: Mark Madaio, Esq., Planning Board Attorney
Eileen Boland, P.E., Boswell Engineering, Planning Board Engineer
Joseph H. Burgis, P.P., Burgis Associates, Borough Planner

APPROVAL OF MINUTES: Minutes of the June 10, 2015 meeting carried to July 8, 2015.

CORRESPONDENCE:

After reviewing correspondence from Bruce Whitaker, Esq., and Steven Tripp Esq., Mr. Virgona announced the following (2) applications listed on the Agenda are carried to the meeting scheduled Thursday, July 23, 2105 at 7:30 p.m. without further noticing required:

Nirchio – 16 Oak Drive, Block 1210 – Lot 3; Blake Gardens, LLC – 62 Sparrowbush Road, Block 502 – Lot 1

PUBLIC HEARING

1. **Housing Element and Fair Share Plan**/Borough of Upper Saddle River
(*Proposed Master Plan Document prepared by Burgis Associates, dated June 10, 2015*)

Mr. Burgis provided an overview of the rules and regulations adopted by COAH requiring municipalities to provide their fair share of low and moderate income housing.

Mr. Burgis reviewed components of the proposed plan that would address the Borough's remaining affordable housing obligation by providing 70 units on the site located behind the Porcelanosa development on Route 17 North that was purchased by the Borough for this purpose in 2005.

The development would consist of (46) units allocated for senior citizens and (24) units allocated for special needs adult citizens.

Mr. Burgis advised the next step is for the Board to adopt the Plan, forward a copy of the Plan and Resolution recommending the Governing Body endorses the Plan and file with the Court for approval.

A motion to open the Hearing to Members of the public by Councilman DeBerardine seconded by Mr. Polizzi.

John Giudice, 22 Ripplewood Drive, provided comments regarding the distribution of the units for special needs and senior housing. Mr. Giudice also questioned the impact upon the school system and flexibility if the market conditions should change.

Mr. Burgis explained there is a need for special needs persons and the aging population. The proposed allocation has no impact upon the school system as the units would be occupied by all adults, not school aged children. When the applicant files the site plan and receives approval from this Board, if there are any changes they must come back to the Board for amended site plan approval.

With no further comments from the Board or public, Mr. Virgona closed the Hearing.

A motion by Councilman DeBerardine seconded by Mr. Polizzi to adopt the Housing Element and Fair Share Plan and the Resolution as presented.

Ayes: Councilman DeBerardine, Mr. Polizzi, Mayor Minichetti, Mr. Preusch, Mr. Wortmann, Mr. Richardi, Mr. Stutman, Mr. Bakal, Mr. Jacobs, Mr. Virgona.

2. Application of **Garzon**
44 Carlough Road – Block 703 – Lot 2
(Height; Privacy Wall, Fence, Piers/*As Built Construction*)

James Jaworski, Esq., representing the applicant, stated the applicant is requesting an interpretation of the Zoning Code or variance relief and related approvals for the constructed screening wall/planter and fence piers that have been determined to be non-compliant by the Zoning Officer. Mr. Jaworski advised the applicant was previously before the Board and was granted variances for height and front yard setback due to the topography of the site.

Mr. Madaio reviewed the 2014 Resolution, stating the privacy walls are oversized as to height.

Tibor Latincsics, P.E., duly sworn by Mr. Madaio, submitted and reviewed the Exhibit List, A-1 through A- 9. Mr. Latincsics pointed out the original privacy walls proposed on the north and south side of the home (depicted on A-2) measured 23-25 ft. long with arched openings were withdrawn and not built. (A-2) was amended and became approved plan (A-3). Mr. Latincsics circulated copies of A-9, series of 11 photographs taken June 22, 2015 depicting the home in its current state. Mr. Latincsics testified the walls were built to shield the AC units from being viewed from the street, and if approved, additional landscaping will be installed. Mr. Latincsics testified the walls measure 7 ft. from natural grade, and 6.7 ft. to the finished grade. The walls are part of the building attached

to the home and consistent with the home's architecture, disagreeing with Mr. Walsh's interpretation that compared the constructed privacy planters to driveway pillars.

Discussion followed. Mr. Madaio advised the argument is that it is not a wall, but part of the house.

Mr. Latinsics further testified to the privacy planters serving a privacy purpose, hiding the AC units and generator. If the height is a concern, it can be lowered by (1) ft. Mr. Latinsics confirmed his testimony that the height is 7 ft. from the top of the wall to natural grade.

In response to comments from the Board, Mr. Latinsics testified the wall is directly abutting the house and will have the same stucco finish as the home. It serves a true planning purpose, blocking the AC units from view.

Mr. Jaworski referring to the Zoning Officer's denying the masonry posts for the fence, requested interpretation or relief if required, as piers are not located at the driveway.

Mr. Latinsics provided testimony regarding the (5) masonry piers constructed on the south side of the house. Mr. Latinsics testified wrought iron fencing is proposed in between the piers, but has yet to be installed. Mr. Latinsics testified the Zoning Officer's denial was based on the wall being forward of the rear of the house; the front line of the (5th) pier is 3 ft. beyond the rear line of the front of the house. The house is positioned due to the irregular shaped lot line.

In response to comments from the Board, Mr. Latinsics testified this is not a typical driveway stanchion at the head of a driveway.

Mr. Jaworski stated if the location is an issue, the applicant is amenable to moving it back 3.5 ft.

Mr. Madaio explained the fundamental argument is the piers are not part of the fence construction. If wrought iron were installed it would be a fence. Discussion followed. Mr. Jaworski advised, it will be stipulated black wrought iron will be installed between the piers.

Mr. Latinsics reviewed the height variables of the piers.

In response to comments from the Board, Mr. Latinsics testified the existing driveway will be removed and replaced with pavers; a Zoning Permit has been issued for the driveway.

Ms. Boland commented a condition of approval should require that the applicant go back to the DEP for approval of the boulders installed around the pond that are now within the area of non-disturbance.

In response to comments from the Board regarding a concern the piers are located within close proximity to cars pulling in and out of the driveway, Mr. Jaworski advised the contractor followed the lines of the driveway.

In response to comments from the Board, Mr. Jaworski advised the planter walls were built, but not submitted with the building application and; the (5) masonry structures are not piers as defined by Borough Code.

Discussion followed regarding the position if the structures are considered piers or a fence.

Mr. Jaworski stated the planter was built as a privacy screen and the piers were constructed in order to build a fence, neither are offensive to code or the surrounding properties. In the alternative to appealing Mr. Walsh's determination, Mr. Jaworski advised the applicant is asking for (6) inches for the privacy wall/planted constructed on the left side of the building and would accept the height measured from the natural grade. Regarding the (5) fence posts, Mr. Jaworski stated they are heavily screened with evergreen plantings that will not disappear in the summer or winter. Mr. Jaworski stated the applicant is asking for diminimus relief.

Mr. Jaworski re-confirmed the applicant is requesting a height variance to permit the constructed privacy wall/planter located adjacent to the northern corner of the home having a height of 6.7 ft. to the finished grade or 7 ft. to natural grade; to permit the constructed (5) fence posts with varying heights between 4.5 ft. and 5.25 ft; to permit (4) of the fence posts to be located just beyond the extension of the main building line and the (5th) post to be located more than 3 ft. beyond the building line extension.

A motion to open the Hearing to Members of the public by Mr. Polizzi seconded by Councilman DeBerardine.

Upon no one appearing to provide comment, Mr. Virgona closed the Hearing.

A motion by Mr. Stutman seconded by Councilman DeBerardine to approve the application and grant the relief as requested with the condition the applicant must go back to the NJDEP for approval of the disturbance within 19 ft. of the pond.

Ayes: 7 Mr. Stutman, Councilman DeBerardine, Mayor Minichetti, Mr. Preusch, Mr. Bakal
Mr. Polizzi, Mr. Virgona

Nay: 2 Mr. Wortmann, Mr. Richardi

3. Application of **Ramsey Auto Body**
265 Route 17 South – Block 1301 – Lot 8
(Amended Site Plan Approval/*Allow Parking of (3) Additional Tow Trucks*)

Mr. Madaio counseled the record is to reflect Mr. Stutman has recused himself from this application and adjourned the Meeting at 8:55 p.m.

Robert Zisgen, Esq. representing the applicant advised the purpose of this application is to seek an amendment to the 2003 Stipulation of Agreement entered into by James Venusti, owner of Ramsey Auto Body and the Borough of Upper Saddle River. Mr. Zisgen stated (2) factors give rise to this request: the change in auto design and the Township of Mahwah increasing the minimum equipment requirement to qualify for participating in police rotation towing.

Santo Alampi, Esq., advised he is representing the objector, a principal of NAR Towing.

Mr. Madaio advised Ramsey Auto Body previously appeared before the Board of Adjustment who determined towing was not part of the business. The applicant pursued litigation and through the Stipulation Agreement was permitted to have no more than (3) tow trucks.

Discussion ensued regarding the issue if the Superior Court would continue to maintain jurisdiction over the settlement agreement.

Mr. Zisgen stated there was an agreement between (2) parties; Mr. Venusti is here as to why he is seeking a change. This application is based upon change of circumstances.

Mr. Alampi objected advising there are issues and problems, as the applicant never received site plan approval in 2002. Mr. Madaio advised the objection is so noted for the record.

James Venusti, owner of Ramsey Auto Body, duly sworn by Mr. Madaio, testified to automotive design changes since the 2003 Settlement Agreement was signed that now dictate the method in which vehicles must be towed. Mr. Venusti testified (4) wheel drive, SUV and front wheel drive vehicles are required to be towed employing a flatbed truck. Mr. Venusti testified a few towns now require towing services have (2) of each type of tow truck: flatbed, wrecker and heavy duty in order to meet their immediate priority to clear an accident scene as quickly and safely as possible.

In response to comments from the Board, Mr. Venusti testified the 2003 requirement to qualify for towing in Upper Saddle River was (1) wrecker, 1 flatbed and 1 heavy duty tow truck. This requirement was the same in the surrounding towns.

Mr. Venusti testified that Mahwah has now upgraded the equipment requirement to include (2) wrecker trucks; (2) flatbed trucks; and (2) heavy duty trucks.

Discussion ensued if Upper Saddle River is now required to meet the requirement of other towns.

Mr. Venusti testified he believes it would be a benefit to Upper Saddle River and all towns if the agreement would be amended allowing for him to have (6) tow trucks.

In response to comments from the Board, Mr. Venusti testified he did not seek site plan approval.

Mr. Zisgen requested waivers on the application for amended site plan approval after it was established there was no previous site plan for comparison.

Mr. Zisgen submitted an aerial google map as requested by Ms. Boland – identified as O-1. A survey prepared by Doolittle was submitted and identified as O-2 but not testified to.

Mr. Zisgen withdrew the application for amended site plan approval and advised the application is to modify the Settlement Agreement requesting approval for (3) additional towing vehicles.

In response to comments from the Board, Mr. Venusti testified that he is the owner of Ramsey Auto Body in Upper Saddle River and Venusti Auto Body in Mahwah. Both are licensed sites and registered on the respective Police rotation lists.

In response to cross examination by Mr. Alampi, Mr. Venusti testified he is the owner of (4) of the (7-8) companies that are registered on the lists for Police rotation towing in surrounding towns.

In response to Mr. Alampi, Mr. Venusti testified (34) storage spaces are presently striped.

Striping is at the edge of the macadam; the additional storage spaces are on a gravel product and can't be striped due to its mobility.

Mr. Alampi reviewed the Settlement Agreement advising the applicant is in breach of the Agreement which required (57) vehicle storage spaces to be striped within (90) days of the Agreement.

Mr. Venusti testified he doesn't know if the Agreement was filed with the Court.

A motion by Mr. Polizzi seconded by Councilman DeBerardine to open the Hearing to Members of the public regarding the testimony provided by Mr. Venusti. No one appeared to provide comment.

Mr. Virgona announced the application is carried to the Thursday, September 24, 2015 Meeting without further notice required. Mr. Zisgen extended the time within which the Board is to render a decision.

Mr. Madaio requested (16) copies of the transcripts be provided to the Board.

PUBLIC COMMENT

A motion by Councilman DeBerardine seconded by Mr. Polizzi to open the Meeting to Members of the public. No one appeared to provide comment.

ADJOURNMENT

A motion to adjourn by Mr. Polizzi seconded by Mayor Minichetti was unanimously approved by all Members present. Meeting adjourned at 10: 35 p.m.

Respectfully submitted,

Linda Marmora
Clerk