

PLANNING BOARD MINUTES
PUBLIC MEETING
SEPTEMBER 2, 2010 - 7:00 P.M.
HELD AT OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting copy of same at Borough Hall
- ❑ Forwarding copy of same to the Record
- ❑ Mailing a copy to any person requesting same

**** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Elaine T. Rowin, Eric Kulmala, Barry Colyer, Christopher Baczewski, Dan Hagberg, John Morris, Councilwoman Marcalus, Mayor John Szabo and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:10 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Kulmala, Colyer, Baczewski, Hagberg, and Councilwoman Marcalus and Chairman Potash.
Absent: Mr. Morris and Mayor Szabo

Also in attendance, Joseph Russo, Esq., (Board Attorney) and Kevin Tichacek, (Boswell Engineering) and Steve Lydon (Board Planner).

PUBLIC HEARING BEGINS:

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

No comments

Motioned by Mrs. Rowin and seconded by Mr. Colyer, to close this portion of the meeting to the public for matters not on the agenda and to continue with matters on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Catalogue Publishers, Inc. – 40 Edison Avenue, Suite B, Block 3202, Lot 1. A public hearing for a Certificate of Occupancy.

Chairman Potash and Mr. Russo, Esq. recused themselves from the application. Mrs. Rowin filled in as Chairperson and Matthew Cavaliere, Esq., Board of Adjustment Attorney, filled in as Board Counselor.

Mr. Ben Cascio, Esq. located in Franklin Lakes, New Jersey was before the Board representing Catalogue Publishers, Inc., the applicant.

Mr. Gary Hager of Montvale, New Jersey and owner of the business was sworn in. He testified that for the past 23 years, he has leased approximately 14,000 square feet of space in a building located in Fairlawn, New Jersey. His objective is to scale down and conduct business more as a broker in this field. Most of their business transactions are done through the Internet and by telephone.

Items at the proposed site would consist of, a large machine that cuts and folds large pieces of paper and collates, four laser printers and a binding machine.

Deliveries to the site would include a daily U.P.S. and Federal Express visit as well as a delivery twice a year by a tractor-trailer to supply the company with paper.

Mr. Hager informed the Board that there would be a total of four employees, which includes his wife, son and himself and the three parking spaces supplied would be sufficient. Mr. Tichacek informed the Board that there is an excess of parking spaces at the site and agreed with the applicant that there would be adequate parking.

Mr. Cascio reviewed with the applicant that there would be no hazardous chemicals or waste as well as no glare or vibration emanating from the site.

Exhibit A-1, Photos of the existing dumpsters.

Mr. Hager explained that it was his understanding that the dumpsters on site were being removed. The Board questioned where the garbage would be disposed. Mr. Cascio responded that he believes that the dumpsters are being removed because the landlord owes money to the hauling company. He expressed that the applicant does not have control of this situation. Mr. Hager added that very little waste is generated except for recycling paper. He would bring any garbage accumulated during the day back to his home and dispose of it there.

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to open the meeting to the public regarding matters concerning the Catalogue Publishers, Inc. application was voted unanimously by the Board.

No comments.

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to close the meeting to the public regarding matters concerning the Catalogue Publishers, Inc. application was voted unanimously by the Board.

Motioned by Councilwoman Marcalus and seconded by Mr. Baczewski, to approve the Catalogue Publishers, Inc. application.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer, Hagberg and Councilwoman Marcalus.
 Nays: None
 Abstain: None
 Absent: Mr. Morris and Mayor Szabo.

2. Heritage Hills Property – Ramapo Valley Road, Block 2401, Lot 9.
 A public hearing for a minor subdivision.

Mr. Steven Muhlstock, Esq. with Gittleman, Muhlstock & Chewcaskie located in Fort Lee, New Jersey was before the Board representing the Borough for the minor subdivision.

Mr. Muhlstock explained that this property acquired by the Borough was to be saved as Open Space by Mayor and Council. However, it has been decided that a piece of the property would be designated for the potential site of the installation for a water-well.

The Borough is proposing to subdivide a 1-acre lot off the parcel of land to install the well. The remainder of the land would be saved as Open Space. As a result of the subdivision, two variances would be required for no frontage and not meeting the minimum of lot area required in that zone.

Mr. Muhlstock informed the Board that an existing easement runs along the property on Block 2302, Lot 3 out to Spruce Street which would allow access to the property.

Exhibit A-1, Environmental Concerns Map site plan prepared by Crew Engineering.

Exhibit A-2, Survey of property prepared by Kennon Surveying Services, Inc. dated May 13, 2010.

A discussion ensued regarding comments made by the Health Department concerning a septic system located on adjacent lot 22. This septic system is situated approximately 10 to 20 feet off the proposed subdivision line. Mr. Muhlstock responded he is aware of this and added that it is also a requirement of New Jersey Department of Environmental Protection (NJDEP) to maintain a 200-foot distance between a well and septic system. As a result of these findings, the well would be placed more towards the rear of the proposed subdivision. He explained that the county engineers would work with the Borough on the boundaries ensuring the proper distances.

The Board questioned if this minor subdivision would be perfected by deed. Mr. Muhlstock responded that the map would have to be filed as a minor subdivision with the county. Mr. Tichacek informed the Board that Boswell Engineering has completed the review of the deed description.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to open the meeting to the public regarding matters concerning the Heritage Hills property subdivision was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Councilwoman Marcalus, to close the meeting to the public regarding matters concerning the Heritage Hills property subdivision was voted unanimously by the Board.

Mr. Muhlstock reviewed that a variance for lot area and frontage would be required as well as a 200-foot distance from the septic system on the adjacent property.

Motioned by Mr. Baczewski and seconded by Mr. Colyer, to approve the minor subdivision for the Heritage Hills property.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer,
 Hagberg, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Morris and Mayor Szabo.

3. A & E Ventures of Oakland – 101 Plaza Road, Block 2702, Lot 1.
Public hearing for a preliminary and final major subdivision and site plan, soil move and bulk variances has requested to be carried to the September 2, 2010 meeting.

Mr. Thomas J. Herten, Esq. with the firm Herten Burstein located in Hackensack, New Jersey was before the Board representing A & E Ventures of Oakland's continued application.

Mr. Herten reminded the Board that the A & E Ventures of Oakland application was last heard July 8, 2010. At that hearing, testimony had been given by Mr. Eli Dweck with regard to the ownership of the property and what the applicant proposes.

Mr. Dweck testified that his company proposes to subdivide the property and make modifications to the existing Burger King as well as construct a new Bank with a cross-easement for a septic system and parking.

He reviewed the design scheme of the Burger King and informed the Board that they would not be LEED certified but would agree to be energy efficient through their utilities and landscaping by recycling water for irrigation.

Mr. Pugsley with Bohler Engineering located in Warren, New Jersey also testified at the July 8, 2010 public hearing on variances that would be triggered as a result of the subdivision.

The Board questioned a letter from the New Jersey Department of Transportation (NJDOT) acknowledging notice given informing the applicant that they may require permits for access of the site due to the proposed changes to the property. Mr. Herten responded that he was aware of it.

Mr. Pugsley reviewed with the Board that testimony was also given in regard to the reduced number of building signs. They reduced the number of signs from 11 to 7 proposed signs and would have further testimony on the signs later in the evening.

Mr. Pugsley reviewed the bulk variances with the Board. The applicant would require variances for exceeding impervious coverage by 75 percent on one lot and 70 percent on the other lot. Maximum impervious coverage is not to exceed 55 percent.

The applicant would require variances for retaining walls along each frontage providing the property with a pedestrian friendly flow. Also, a variance would be required for having a dumpster in a front yard.

Lot "A" requires a minimum of 25 parking spaces where 23 parking spaces are being proposed and lot "B" would require a variance with 21 parking spaces being the minimum and 23 parking spaces being proposed. In addition, the minimum size of a parking space is required to be 10' X 20' and the applicant proposes parking space size of 9' X 18'.

The applicant awaits NJDEP approval for a shared septic system and a Highlands Council exemption letter for not exceeding the maximum impervious coverage requirements. In addition, there would not be enforcement issues for a

portion of property on site that is within the 300-foot buffer of a Category 1 stream.

The installation of retaining walls and grading of the site would require a soil movement of approximately 4,800 cubic yards. The applicant would agree to coordinate a route favored by local officials for the truckloads of soil.

A total of two freestanding pylon signs with the “Burger King” logo on top and a “Drive-Thru” / “Tenant” sign below would be located on site. One of the signs would be facing Ramapo Valley Road and Plaza Road and the other sign facing Ramapo Valley Road and Post Road. On both signs, the width dimension exceeds the height dimensions by more than 50 percent.

Permitted signs being proposed would include five signs on the north face, three signs on the south face, two signs on the east face and one sign on the west face. These signs are described as a “BK” logo, “Home of the Whopper” canopy, a mural of “The Whopper” and “Have it your way” sign. Mr. Herten expressed that the amount of façade signs complies with the general ordinance.

The Board requested that a picture be submitted to the Board showing how the mural would appear.

Exhibit A-6, Exterior Elevations revised September 14, 2009.

Exhibit A-7, Detail Sheet dated July 6, 2010.

A freestanding preview board, menu/order and standard directional detail signs are also being proposed. These signs would declare maximum vehicle height allowable through the drive-thru and enter and exit signs to direct a safe traffic pattern. These signs would be internally illuminated.

Any signage proposed for the bank would either comply with the Borough’s ordinance or the applicant would stipulate to return back before the Board.

The Board questioned if the menu boards were the same size as the existing menu boards. Mr. Herten responded that he was not sure but did not believe the menu boards were larger.

The Board questioned if the applicant intends to use the mural for advertisement purposes where it could change periodically. Mr. Herten responded that the mural could change but they would not be using the mural for advertising.

A discussion ensued concerning the number of signs versus the number of fronts. In addition, discussions concerning safety measures that should be taken for pedestrians concerning some of the higher retaining walls.

The Board questioned the height of the freestanding pylon signs. Mr. Herten responded that the sign facing Ramapo Valley Road and Plaza Road would be approximately 12-feet high and the sign facing Ramapo Valley Road and Post Road approximately 15-feet high.

The Board expressed reservations with the corporate proposal for the number of signs. They expressed that most people in the area know where the Burger King is located.

Mr. Lydon expressed that he was not sure whether the Board would have jurisdiction on a decision of off-premise advertising for both the bank and Burger King. Mr. Tichacek added that this could require another variance. Mr. Russo expressed he did not believe that this was a jurisdiction issue.

Meeting recessed at 8:50 p.m.

Meeting resumed at 9:00 p.m.

Mr. Herten explained that during the break he discussed with his professionals some of the issues that were brought up. He expressed that Starbucks and Walgreens do off-premise advertising with signage which was approved by the Planning Board.

In addition, the menu board would not be any larger than what currently exists. The Board suggested that these dimensions be submitted to the Board. Mr. Herten responded that he would make sure these dimensions are submitted.

Mr. Herten introduced Mr. John Schumm, licensed engineer and architect with Commercial Design Inc. located in Hamburg, New Jersey. Mr. Schumm deals mainly with commercial design assisting 40 or more Burger Kings and 40 to 50 other franchises. He reviewed his credentials and the Board accepted his qualifications.

Mr. Schumm expressed that the applicant went back to Burger King Corporation with the desired alterations to the building. He informed the Board that Burger King would agree to remove the black painted steel wall and replace it with a brick facing.

He showed pictures and computerized images of other Burger King restaurants in other states with different design features. The Board requested that pictures of these restaurants during daylight hours be submitted to the Board

The proposed mural would be fabricated onto panels with a ceramic finish and imbedded into the brick facing. "The home of the Whopper" sign would be a three dimensional letter sign with interior lighting.

The Board questioned if both buildings, Burger King and the bank, would be the same height. Mr. Schumm responded that the two building would be the same height. The Board questioned what the height of the two buildings would be. Mr. Schumm responded that the height would be 19-feet for both buildings. Mr. Tichacek informed the Board that the tower design on the Burger King building depicted on the site plans is as high as 22-feet.

The Board commented that they were still not fond of the design or the color of the building.

A discussion ensued concerning the dumpster in the parking area. Mr. Herten expressed that screening is not required but the applicant would agree to add some landscaping to buffer the area.

Mr. Paul Going from Atlantic Traffic & Design Engineers, Inc. located in Warren, New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Going informed the Board that their firm was hired as traffic consultant for TD North Bank adjacent from the proposed site

He explained that a traffic impact analysis was conducted on January 7, 2010 on Ramapo Valley Road (county road), Post Road and Plaza Road (both local roads).

Currently, egress and ingress consist of (1) ingress-only driveway, (1) full-movement driveway along Ramapo Valley Road, (1) left in driveway, (1) left out driveway and (1) right in driveway along Post Road. There is a full-movement driveway along Ramapo Valley Road.

The proposed would consist of (1) full-movement driveway along Ramapo Valley Road, (1) left in and (1) left out driveway along Plaza Road and (1) right in along Post Road.

The site currently has one drive-thru window and the applicant is now proposing two drive-thru windows with a smaller Burger King building.

Currently, Burger King trip generation during peak hours is 40 vehicles and on Saturday are 99 vehicles. The bank is proposing trip generation during peak hours to be 94 vehicles and 98 on Saturday.

A discussion ensued concerning how the proposed Burger King and Bank would affect the left hand turn onto Ramapo Valley Road from Post Road and the delay range for the traffic light. Mr. Doing responded that currently the delay range at the traffic light is 55 – 80 seconds. He expressed that the applicant could submit a preliminary plan to the county extending the green light time for two additional

seconds. However, the county may want to wait and see how the bank and Burger King work together before they make any changes. The Board questioned if the Borough would be responsible if the county did not agree with the additional two-second green light time. Mr. Tichacek responded that the Board could also send a letter requesting this which could reinforce the applicant's request.

Mr. Herten reviewed changes that were suggested by Boswell Engineering's review letter with the Board. The changes would include, moving the crosswalk between Burger King and the bank to the north side removing it from a mid-block location, a stop provided at the connecting road between the two buildings, a yield sign provided at the Burger King drive-thru intersection, a 12-foot radius increased to a 15-foot radius at the Burger King drive-thru clearance sign, a stop sign and bar added at the end of the Plaza road entrance, a R3-2 sign added at the end of the Post Road entrance and a copy of the county timing directive for Ramapo Valley Road, Long Hill Road and Post Road intersection.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to open the meeting to the public regarding matters concerning the A & E Ventures of Oakland application.

No comment.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski, to close the meeting to the public regarding matters concerning the A & E Ventures of Oakland application.

Chairman Potash announced that this application would be carried to the October 14, 2010 public hearing with no further notice.

MEMORIALIZATION:

1. Kinesys Automation – 5 Fir Court, Block 2302, Lot 8. Public hearing for a Certificate of Occupancy.

Motioned by Councilwoman Marcalus and seconded by Mr. Baczewski, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Baczewski, Colyer,
 Hagberg and Councilwoman Marcalus
 Nays: None
 Abstain: None
 Absent: None

PAYMENT OF BILLS:

Motioned by Councilwoman Marcalus and seconded by Mr. Baczewski, to approve the payment of bills subject to the availability of funds.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Colyer, Baczewski, Hagberg, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Morris and Mayor Szabo.

APPROVAL OF MINUTES:

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to approve the August 12, 2010 Minutes as amended.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Kulmala, Colyer, Baczewski, Hagberg and Councilwoman Marcalus.
 Nays: None
 Abstain: Chairman Potash
 Absent: Mr. Morris and Mayor Szabo.

NEW BUSINESS:

Mr. Lydon updated the Board that supplemental information has been sent to NJ Council on Affordable Housing (COAH) in order to be deemed complete.

OLD BUSINESS:

A discussion ensued concerning a "Notice of Violation" issued to the Bartholome property by the NJ Department of Environmental Protection (NJDEP). Mr. Russo informed the Board that he had not yet sent a letter to NJDEP verifying that the proper bureau reviewed the Bartholome application. He suggested that someone did alert another agency of the NJDEP. Mr. Tichacek added that through discussions with the NJDEP, he has been informed that the different bureaus are not always alerted of each other's business.

Mr. Russo informed the Board that he would need to make a correction to the Bartholome resolution. He and Mr. Weiner, Esq. had discussed that in the resolution, "no mulching at the site" was permitted and is the activity that takes place on the premise. Mr. Russo expressed keeping "no grinding" in and omitting "no mulching" from the resolution.

PUBLIC MEETING ADJOURNED AT 10:50 P.M.

Motioned by Mrs. Rowin and seconded by Mr. Baczewski to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

Kathlyn Gurney/Administrative Assistant