

BOROUGH OF HAMBURG
LAND USE BOARD MEETING MINUTES OF OCTOBER 16, 2019

The Borough of Hamburg Land Use Board meeting was called to order at 7:00 p.m. by Chairman Thomas Watts in accordance with the Open Public Meeting Act, with regard to notices.

Mr. Watts invited all those present to participate in the flag salute.

Mr. Watts read the Statement of Certification: This meeting is in compliance with the Open Public Meetings Act, Public Law 1975, Chapter 231, Sections 4 and 13, as advertised by Annual Notice.

Those in attendance were George Alakpa, Dan Hall, Guy Harby, Jeannette Tempe, Glenn David Roberts and Thomas Watts. Absent: John Haig, Mayor Marino and Sam Villagomez. Board professionals in attendance: Anne Marie Rizzuto, Esq. and Ken Nelson, P.P. Rich Krasnomowitz left the meeting at 7:03 p.m.

MINUTES:

Tempe made a motion to approve the minutes of September 9, 2019, second by Watts with all others in favor including Alakpa, Hall, Harby and Roberts.

The order of the agenda was suspended in order to hear the application of 55 Gingerbread Castle Road, LLC.

NEW/UNFINISHED BUSINESS:

- A. 55 Gingerbread Castle Rd., LLC**
55 Gingerbread Castle Road (Block 11 Lot 31)
Application No. LU 19-02
Amended Application for "D" Use Variance for the pre-existing non-conforming use and Preliminary and Final Site Plan approval
- Correspondence dated October 15, 2019 forwarding Affidavit of Service
- Correspondence dated September 24, 2019 from Applicant's counsel requesting the opportunity to be heard

*** Resolution prepared**

Joseph A. O'Neill requests that the resolution memorializing the denial of application be held. He indicates that variances are not required for the height of the building. The applicant has withdrawn one of the proposed studio units. The garage will be renovated for one residential use. Mark Charnet, applicant, is in attendance.

Attorney Rizzuto requests the consent of the applicant on the record for waivers of time for the Board to approve the application and memorialize a resolution without further notice required by the applicant. O' Neill consents to the extension of time. Attorney Rizzuto suggests the extension be granted through December 31, 2019. She indicates that while the applicant's request is not typical, the Board should allow the continuation since the request is permitted

under MLUL due to the revision to the plan. Rizzuto discusses the legal standards for the Board's consideration. Reopening the application does not mean the Board's prior vote does not exist. The resolution for the application will include the entire history of hearings from September 9, 2019 hearing. The memorialization of the denial is being held pending further hearing on this application.

Attorney Rizzuto continues discussion on the property's non-conforming use as a multifamily residential dwelling in the Industrial Zone. The raising of the roof does not expand the use or the intensity of the use. Mr. Nelson is in agreement that an approval of a use variance is not required to raise the roof. The raising of the roof is required since it presents a life safety code issue as it exists and is required for habitability. The use of the property as a multifamily use has not abandoned.

The Board recognizes and agrees that a portion of the proposed project seeks approval for the raising of the roof to promote habitability on that particular floor only. As such, all Board members are in favor of permitting the raising of the roof to improve habitability of the top floor (third level) of the residence only. No variances are required for this improvement.

At 7:23 p.m., Attorney O'Neill swears in applicant Mark Charnet, owner of the subject property and managing member of the entity known as 55 Gingerbread Castle Road, LLC. Mr. Charnet discusses the additional properties he owns within the Borough including one on King Cole Road and another on Route 94. In addition, he owns properties in Newton including a four family residence that is similar to the subject property. He takes pride in his improvements and would like to return this residence to its original grandeur.

He discusses the current condition of the property and the discussion at the prior hearing noting the issues of concern including the studio style housing, line of sight concerns, erosion of the Walkkill River and the safety of children on the subject property. He intends to remove trees and shrubs that could have an effect on line of sight. The improvements he is proposing will not have any effect on the erosion of the Walkkill River. In order to alleviate the concerns of the Board member who requested fencing, he will install a fence although he noted that the Borough's park does not have fencing and the river runs along the park which is frequented by children. As to the visibility of this property from the Bluffs development, he will add fast growing trees and shrubs although the basin provides a buffer from the development to the subject property.

Nelson leaves the meeting at 7:30 p.m.

Attorney O'Neill indicates that he intends to move forward with the site plan application where it had previously been bifurcated.

Mr. Charnet discusses the conversion of the garage to one studio unit. The garage may be raised to permit fire egress. He discusses his interest in working with the neighbors.

Attorney Rizzuto permits the reopening of the application but limits the testimony to the new proposals, revised plan and expert testimony regarding same.

A motion is made at 7:35 p.m. to open the meeting to the public by Tempe, second by Harby with all others in favor. Watts indicates that the discussion is to be limited to the reopening of the application.

Lawrence Huczko of 21 Bluffs Court is sworn in. He has been a resident for 7 1/2 years. He questions whether an asphalt driveway and landscaping will be installed. Mr. Charnet indicates that he is proposing asphalt with new drainage and will work with his landscape architect on a plan. The house will not be re-sided within the first year. Huczko expresses his concerns about traffic and low income housing. It is his opinion that Hamburg's housing is already affordable and as such, additional units should not be needed.

Attorney Rizzuto indicates that the property currently has four units and the applicant will request one additional unit at the next hearing.

Mr. Charnet states that the original application was for six units and has been reduced to five units.

Attorney O'Neill indicates that a site plan will be submitted.

Attorney Rizzuto reminds the public that the discussion is limited to the reopening of the application to consider revised plans.

At 7:46 p.m., Mark Falb, 42 Bluffs Court is sworn in. He indicates he is ex-military and has concerns about the change the Board is making. He questions the reasoning as to why the applicant is not proposing to re-side the residence within the first five years. Attorney Rizzuto states that the Board has no authority to tell the applicant when to make improvements. Tempe states that the applicant is proposing to improve the appearance. Attorney Rizzuto thanks him for his comments and requests public input.

John DePinto, Marketing Director for the Bluffs at Ballyowen indicates that he was sworn in at the last meeting. He does not live in the Borough. He questions whether the applicant will make improvements without D Variance approval. The property is in disrepair. The proposed improvements to the property would assist the integrity of the Bluffs development.

Attorney Rizzuto adds that an amended application is not required. This application would continue and address revisions to the site plan. A more detailed landscape and engineering plan will be discussed. The applicant's planner and architect appeared and provided testimony at the September meeting.

Attorney O'Neill adds that the site plan testimony was not provided at the last hearing since they proceeded with a bifurcated application.

DePinto requests that a copy of the site plan be provided to the Bluffs development. He will distribute to all homeowners so they will have a chance to review the plan in preparation for the meeting.

Mr. Charnet agrees to provide a copy as a courtesy. Attorney Rizzuto states that the applicant is not required to distribute the copy under the MLUL since the required number of plans are submitted to the Board.

A motion is made at 7:53 p.m. by Tempe, second by Harby to close the meeting to the public with all others in favor.

Attorney O'Neill is requesting the reopening of the application in order to prepare a plan that takes into account the concerns of the neighbors.

A motion is made by Harby, second by Tempe to approve the reopening of the application for reconsideration of 55 Gingerbread Castle Road, LLC with no further notice required with all in favor including Alakpa, Hall, Harby, Roberts, Tempe and Chairman Watts.

Attorney Rizzuto adds that the minutes of the September 9, 2019 meeting should reflect the reason for the bifurcation specifically that the D variance for the use as multifamily in the Industrial Zone with two additional residential units proposed for a total of six units was addressed at the hearing not site plan. The applicant should be provide revised plans in the time required for the Board professionals' review. If the plans cannot be submitted in time, the Board will address same at the November meeting. The applicant is not required to and will not provide further notice.

BILLS/VOUCHERS:

- a. Weiner Law Group - \$400.00 – General
- b. Weiner Law Group - \$1,003.00 – 55 Gingerbread Castle Rd. escrow #190
- c. Mott MacDonald - \$743.50 – 55 Gingerbread Castle Rd. escrow #190
- d. Mott MacDonald - \$70.50 – Vallila escrow #188
- e. The Nelson Consulting Group - \$525.00 - 55 Gingerbread Castle Rd. escrow #190

Tempe made a motion to approve payment of the bills/vouchers. Second by Alakpa with all others in favor including Hall, Harby, Roberts and Watts.

CORRESPONDENCE:

- a. 10/11/19 – Correspondence from Board Secretary requesting additional escrow from North Jersey Advertising
- b. 9/13/19 State of NJ RMP Addendum 2019-2 Highlands Plan Conformance Procedures
- c. 9/9/19 Memo from Land Use Board to Mayor and Council re: Planning Services Proposal

There were no comments from the Board on the correspondence.

RESOLUTION:

- A. North Jersey Advertising**
151 Route 23 (Block 22 Lot 28.01)
Application No. LU 19-01
Application for Site Plan and Use Variance

A motion is made by Tempe, second by Hall with all in favor including Hall, Harby and Tempe to memorialize the resolution denying the application for site plan and use variance.

B. James Vallila
130 Route 23 (Block 12, Lot 6)
Application No. LU 19-03
Application for "C" and "D" Variances

A motion is made to carry the Vallila application to the December 9th meeting with no further notice required as requested by the applicant. All board members were in favor.

PROFESSIONALS REPORTS: None.

A motion is made by Tempe, second by Harby at 8:03 p.m. to open to the public. Phillip Graziano, 89 Bluffs Court, addresses the Board with respect to making a left turn out of Bluffs Court due to limited distance. He requests whether mirrors could be added to assist with the issue. The Board has no jurisdiction over this issue. It is suggested Mr. Graziano address this with the governing body.

A motion is made by Tempe, second by Harby at 8:06 p.m. to close the meeting to the public.

ADJOURN:

A motion is made at 8:06 p.m. by Watts, second by Tempe to adjourn with all others in favor.

Respectfully submitted,



Wendy Brick
Secretary to the Land Use Board