



BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT MEETING MINUTES APRIL 5, 2018

A meeting of the East Rutherford Zoning Board of Adjustment was held on **April 5, 2018** at 7:00pm at the Borough Hall, located at 1 Everett Place, East Rutherford. This meeting was held in compliance with the Open Public Meeting Act, N.J.S.A. 10:4-6.

ROLL CALL

- | | |
|---|---|
| <input checked="" type="checkbox"/> Philip Alberta, Chairman
<input checked="" type="checkbox"/> Carmen Polifronio
<input type="checkbox"/> Al Levy
<input checked="" type="checkbox"/> John Martin
<input checked="" type="checkbox"/> Richard Krajunus, Vice-Chairman
<input checked="" type="checkbox"/> Gary Viccaro
<input checked="" type="checkbox"/> Thomas Banca
<input type="checkbox"/> Derek Sands, Alternate Member | <input checked="" type="checkbox"/> John Giancaspro, Secretary
<input checked="" type="checkbox"/> Martin Cedzidlo, Acting Attorney
<input checked="" type="checkbox"/> Glenn Beckmeyer, Engineer
<input checked="" type="checkbox"/> Ray Tripodi, Planner |
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Denotes in Attendance

The meeting was called to order by Chairman Alberta, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES

ROLL CALL						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta			X			
Polifronio	X		X			
Levy						X
Martin		X	X			
Krajunus			X			
Viccaro			X			
Banca			X			
Sands						X

RESOLUTIONS

APPLICATIONS

DOCKET #18-001

Application for Use Variance

Robert Sumanis / Janson Associates

136 Mozart Street

Block 48, Lot 12

Applicant seeks to convert an existing two-family dwelling into a commercial office space.

Chairman Alberta announced that the Applicant had requested that the application be carried to the May 3, 2018 meeting. He stated that no further notice would be required.

DOCKET #18-003

Completeness Review

Yunny Feroz

367 Central Avenue

Block 42, Lot 18

Applicant seeks to convert a two-family home to a three family home.

Chairman Alberta announced that the application has been deemed incomplete by Beckmeyer Engineering. The Board Secretary noted that the review letter of Beckmeyer Engineering was forwarded to the Applicant.

DOCKET #18-002

Completeness Review / Application for Preliminary and Final Site Plan Review with Variances and Waivers

East Rutherford Builders LLC

480-484 Paterson Avenue

Block 28 Lot 1

Applicant seeks to construct a 36-unit multi-family apartment building.

The following exhibits were introduced in connection with this application:

- Exhibit A-1. Full Application
- Exhibit A-2. Existing Conditions Photos
- Exhibit A-3. Architectural Title Sheet (Sheet T-001)
- Exhibit A-4. Architectural Floor Plans (Sheet A-101)
- Exhibit A-5. East Rutherford Fire Department Review Letter
- Exhibit A-6. Site Plan Title Sheet
- Exhibit A-7. Site Plan
- Exhibit A-8. Grading and Utility Plan

- Exhibit A-9. Lighting and Landscaping Plan
- Exhibit A-10. Soil Erosion and Sediment Control Plan
- Exhibit A-11. Soil Mitigation Plan
- Exhibit A-12. Site Detail Sheet
- Exhibit A-13. Additional Site Detail Sheet
- Exhibit A-14. Application Review Letter of Beckmeyer Engineering
- Exhibit A-15. Completeness Review Letter of Beckmeyer Engineering

Gary Cucchiara came forward representing East Rutherford Builders, LLC. Chairman Alberta advised Mr. Cucchiara that a full board was not present at the hearing and that the Board would allow the Applicant to proceed if it wished, however there were stipulations that would be required. Mr. Krajunus reviewed the following stipulations to proceed:

1. The Applicant would provided four (4) copies of the meeting transcript at least 10 days prior to the next meeting to allow Board members present an opportunity to review
2. The Applicant would waive the time requirements
3. The Applicant will have all experts available at the next hearing
4. The Applicant will have the Project Impact Assessment fully completed prior to the next hearing
5. The Applicant would obtain a letter of explanation and decision by the court appointed special monitor, specific to the number of COAH units being applied for

Mr. Cucchiara acknowledged the stipulations and asked to proceed with the hearing.

Mr. Cucchiara introduced Preliminary and Final Site Plan application for an apartment building of 36 units, with 6 COAH units.

Mr. Anthony Giudetti of Saddle River, New Jersey came forward representing the developer/builder. Mr. Guidetti explained that a contract to purchase was in place, contingent on the Board's approval. He noted that he was a native of Rutherford and the opportunity to clean up a local, blighted property was of great interest to him. Additionally, he stated that he has worked on projects in East Rutherford in the past and is pursuing other properties.

Mr. Guidetti reviewed Exhibit A-2 explaining they were existing condition photos of the property from the south and southeastern view. He further stated that the developer had considered a number of uses for the property, but due to economical limitations, the site was determined most appropriate for the proposed development. He also stated he felt it would provide a benefit to the community based on its location and access to services. Mr. Cedzidlo noted that Mr. Guidetti should be focusing testimony on the permitted uses and why the Applicant chose to deviate from those uses. He also stated that Mr. Giudetti's testimony should be more factual, and not a statement of opinion.

Mr. Polifronio asked if any environmental testing was performed on the site. Mr. Guidetti explained that a Phase I assessment was completed and there was no contamination on site. He

further explained that when the original building was demolished, certified fill was brought on site and that was the current state of the property.

Mr. Martin asked about the other sites Mr. Guidetti was working on in East Rutherford. Mr. Guidetti stated that he has and is building on Prospect Terrace and Wall Street, as well as pursuing additional properties on Wall Street and Uhland Street. Mr. Banca asked if the properties currently being built in East Rutherford were one or two family structures, to which Mr. Giudetti responded they were.

Mr. Marc Thomaes, a representative of the owner, New York Community Bank / Garden State Holding, LLC. Mr. Thomaes explained that the property was foreclosed on by the bank after the last owner failed to complete a project that was previously approved. He noted that the last project was likely not completed because of financial constraints by that applicant. He further explained that an application had been submitted to the Planning Board for approval, however, the Borough's court appointed special monitor would not allow the Board to take action on the application. He was unaware of why the special monitor made that decision. He added that since then, a search for a suitable developer had been on-going and this project and developer was attractive to the bank to pursue.

Mr. Raymond Sullivan of Sullivan Architecture Group in Fairfield, Connecticut came forward to provide testimony about the application. Mr. Sullivan used Exhibits A-3 and A-4 to explain that the building was designed to 4 stories with a series of vertical elements and recesses, with varying material finishes including a brick veneer and horizontal siding. He explained that these design elements and decorative cornices were incorporated to keep the building from having a "block" look.

Mr. Sullivan explained that the ground floor would consist of a main lobby that crosses to the rear and an elevator in the center, with two stairways on each end of the building. He testified that there would be 8 units on the first and fourth floor, nine on the second floor, and ten on the third floor. He explained there would be 6 COAH units, including 1 three-bedrooms, 1 one-bedroom, and 4 two-bedroom. He noted the units ranged in size between 740 to 975 square feet.

Mr. Sullivan reviewed Exhibit A-5, the Fire Department's reviewed letter and noted that the building would have a sprinkler, but it was undetermined whether it would be a Type 13 or 13-R system. He noted that he would meet with the Fire Department's representative to discuss the location of items mentioned in the letter.

Mr. Polifronio asked if there were any mechanicals being placed on the roof. Mr. Sullivan responded that there would be no mechanicals on the roof, and each unit would have its own HVAC unit and units would be recessed in the common areas.

Mr. Cedzidlo asked why the proposed structure was proposed so close to the adjacent property, noting the difficulty for the Fire Department to place a ladder. He noted that there was 10 foot side yard setback, and only 2.2 feet was being proposed. Mr. Sullivan responded that the building was designed to meet the construction code requirements.

Mr. Cedzidlo asked what the required apartment size was in East Rutherford. Mr. Sullivan did not know.

Mr. Krajunus asked what benefit the height variance provided to the application. Mr. Sullivan explained that 48.1 feet was proposed at 4 stories, where 35 feet, 2 stories is required. He explained that the height was required to achieve the number of units desired, and elongating the design was not conducive to the building type.

Mr. Beckmeyer noted that the dimensions on the architectural plans do not match those on the engineering plans. Mr. Sullivan stated that the dimensions on the engineering plans were accurate and should be utilized.

Mr. Tripodi asked if a two-story alternative was discussed, which Mr. Sullivan stated it was not because it did not match the developer's requirement.

Mr. Matthew Clark of MCB Engineering came forward to explain the site plan of the application. Using Exhibits A-6 and A-7, Mr. Clark explained that the plan included 64 parking spaces where 63 is required under the municipal ordinance. He noted that the site includes a trash enclosure at the rear of the property, a 6-foot privacy fence around the perimeter of the property, and the impervious surface of the site was at 84% which complies with the ordinance.

Using Exhibit A-8, Mr. Clark explained the grading and utility locations on the site. He noted that the building has no gas service and would be all electrical service to the units. He explained that stormwater would be collected on site and discharged into the municipal stormwater system. Mr. Clark acknowledged that Mr. Beckmeyer requested some additional information in his review letter, which can be provided.

Mr. Clark reviewed Exhibit A-9, the lighting and landscaping plan. He explained that the lighting plan would be compliant and additional information would be provided to Mr. Beckmeyer. He further noted that a shade tree would be provided in the rear of the property and a lawn area in the front, along with a 6-foot privacy fence along the perimeter. Chairman Alberta asked if there was any type of common recreational area, to which Mr. Clark stated there was no area proposed.

Mr. Clark presented Exhibit A-10 and A-11 related to soil on the site, and noted that application was made to Bergen County Soil Conservation and all NJDEP requirements would also be satisfied. Mr. Clark also briefly reviewed site details on Exhibits A-12 and A-13.

Chairman Alberta questioned whether the driveway was appropriately placed in relation to the railroad's right-of-way. Mr. Clark responded that he was confident that the driveway was appropriately located and the application would also be submitted to the County for approval.

Mr. Clark stated the Applicant was seeking the following design waivers:

- Parking offset due to a portion of two parking spaces being located in the sight triangle

- Requirement for centerline striping. He noted the Fire Department's request for the waiver to be rejected. Mr. Clark would speak with the Fire Department.
- Loading Area
- 3-foot area between the sidewalk and the building. He noted a 5-foot sidewalk was being provided
- Handicap space size

Mr. Clark concluded his testimony stating that he would provide additional information requested by Beckmeyer Engineering and the Fire Department. Mr. Beckmeyer noted that any sewer connection would have to be reviewed by the Public Works & Utilities Commission, and drainage would be reviewed by Bergen County. Mr. Clark acknowledged both.

Mr. Krajunus stated he felt the building height in terms of stories and feet was high in comparison to other buildings. He believed the building would be more compatible if the height was lowered.

Mr. William Stimmel, Planner for the Applicant came forward to provide testimony related to the variances requested. He explained that he has been involved in the planning of the project for a period of time, and the Applicant was seeking a D1 Use Variance and a D6 Height Variance.

Mr. Stimmel testified that the D1 Use Variance could be approved as it satisfied the positive criteria in the following ways:

- The site can accommodate the size of the building
- The site is appropriate and in alignment with other sites located in overlay zones which are in close proximity
- Access to public transit
- Access to services, including medical, financial, and retail
- Includes an affordable housing component
- Not located in a flood zone and complies with applicable codes
- Compatible as the community arounds it changes. He noted the approved, approximate 200 unit development by Sterling Development on the Paterson Avenue / Oak Street lot, and the overlay zone for the Sequa Property at Paterson Avenue / Herman Street

Mr. Stimmel testified that the D1 Use Variance could be approved as it satisfied the negative criteria in the following ways:

- No substantial detriment to the surrounding area
- Reduces stormwater runoff
- Limited impact to utilities
- Driveway is located in an appropriate location

Mr. Stimmel reviewed the projected impact to school population, stating that Rutgers University estimates a development such as the one proposed the applicant in this region yields an estimated 4.762 students at a cost of approximately \$19,000.00 to educate each student per year.

Mr. Stimmel reviewed the traffic impact of the proposed development, stating that based on the expected times of travel and lifestyle, the project would yield 13 trips during weekday morning

peak times and 16 trips during weekday night peak times. He noted that this was a less intensive use than what was proposed under the day care proposal.

Mr. Stimmel reviewed the D6 height variance, explaining that the height variance was acceptable to grant as the density was appropriate given the site location of the site and the parking provided. He noted that the architectural features proposed would minimize the size appearance of the building.

Mr. Stimmel summarized his testimony that the proposed project outweighs any detriments and would have little impact on services and transportation in the area. He estimated that tax revenue would increase from approximately \$15,000 annually to \$145,000. Mr. Stimmel acknowledged that the Project Impact Assessment needed to be updated based on the review letter of Beckmeyer Engineering and the COAH units were identified by the special monitor.

Mr. Cedzidlo stated that he did not feel Mr. Stimmel provided the appropriate testimony to satisfy the requirements outlined in the Medici case law. He noted that Mr. Stimmel did not define what makes the site unique and why it is improvement to the area. He further stated that Mr. Stimmel had not established whether the application impaired the Master Plan and how it fits into the surrounding area.

Mr. Polifronio asked if a left turn would be permitted from the site. Mr. Stimmel stated that the County would decide if a left could be made.

Mr. Polifronio asked if the parking spaces provided accounted for visitor parking. Mr. Stimmel responded that a percentage of the parking was assumed to be allocated for visitors.

Mr. Nicholas Minoia came forward representing the developer/builder. Mr. Minoia explained he was a 20-year resident of Rutherford and had a local interest in the project location based on his years of residency. He further explained that he has worked with Mr. Guidetti for several years and created a successful partnership in the development of multi-family residential.

Mr. Minoia testified that the site was viable for the type of development he and Mr. Guidetti are accustomed to. He noted that he is typically a luxury builder, but this site would also incorporate COAH compliance. He explained that the proposed project was designed based on the economics of the project, and market needs. He also explained that the site would be professionally managed as they sought to provide quality housing.

Mr. Guidetti explained that taking on the project requires significant financing, and a good return on investment can not be achieved without some density, which is achieved by the additional stories. He further explained that the inclusion of COAH units does not yield much, if any, return on investment.

Mr. Polifronio asked how the height of the building would affect the neighboring residences. Mr. Stimmel stated that within 500 feet of the property there were no other residential uses.

Due to the lateness of the hour, Mr. Polifronio moved to carry the application to the May 3, 2018 with no requirement for further notice to the public. The motion was seconded by Mr. Martin and all were in favor.

With no further business before the Board, Mr. Martin moved to adjourn the meeting. Mr. Viccaro seconded the motion and all were in favor.

Minutes prepared by:

John Giancaspro
Secretary