

MINUTES - ZONING BOARD OF ADJUSTMENT

Meeting of December 12, 2016

The workshop portion of the meeting was called to order at 8:00 P.M. by Mr. Marotta, Chairman.

ROLL CALL:

Members Present:

Mr. Marotta
Mr. Pistol
Mr. Bovasso
Ms. Hay
Mr. Higgins
Mr. Salomon

Members Absent:

Mr. Illing

Alternates Present:

Mr. Weisgerber
Ms. Dehnhard

Alternates Absent:

None

Also in attendance: Patricia Cullen, Assistant Zoning Officer/Board Administrator and Nicholas Giuditta, Esquire.

COMMUNICATIONS:

None

RESOLUTIONS OF MEMORIALIZATION:

None

MINUTES:

None

OLD/NEW BUSINESS

None

The workshop portion of the meeting concluded at 8:12 P.M.

PUBLIC MEETING:

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on December 12, 2016 at 8:15 P.M. in Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Mr. Marotta announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader or Star Ledger has been notified and the agenda posted in the municipal building as required.

Mr. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

Application #ZBA 16-019:

North Union Associates, LLC, Applicant

18-20 North Union Avenue, Block 192, Lot 5, Zone D-C

To permit conversion of three floors of an existing building that formerly housed a gym. Applicant proposes to construct five apartments with less than the minimum square footage of land per each unit (800sf required proposes 758sf) with the following waivers: less than the required parking; no loading or unloading zone provided and no bicycle rack provided.

Gary Goodman, Esquire appeared on behalf of the applicant. Referring to photo of historical building that the second and third floors have been dormant for several years restaurant exists on first floor. Applicant proposes retrofit the upper floors to five residential units which is the best and least impactive use of the property. Has three witnesses – Thomas Connelly, Architect; Anthony Gallerano, engineer/planner and Jerry Grillo and Jeff Scotti, principals.

Thomas Connelly, Architect, appeared and was sworn in. Credentials presented to the Board and accepted as an expert in the field of architecture.

Mr. Connelly through questions posed by Mr. Goodman testified as follows.

Believes best possible use for the subject property which is a very large building with double height space. Existing upper floors are currently vacant. Plans submitted. Only item not in plans are photos – existing building, building in 1902. Proposed layout of building explained – current restaurant on first floor will remain; second floor will house two one-bedroom apartments of 1,042 and 1,005 sf and ADA accessible; upper floors will house three duplex apartments each two-bedroom. The building does not grant installation of an elevator due to easement with neighboring building whose stairs are under the existing stairs. Makes impossible to locate an elevator in the building.

Will clean the masonry and repoint, replace all existing windows, paint all wood elements, install egress lighting, with intent to return building to historical appearance.

Questions posed by the Board ascertained the following:

Stability issue of building was corrected in late '80s and has documentation verifying same. The new store front windows will be uniform across the exterior of the building including a false window on Alden side. Staircase is second egress. Back of building and parking lot with boarded up windows on third and fourth floor that will be replaced as well as lot being repaved. Cornice will be on front of building as originally designed. Interior finishes of building will be explained by owner. Mechanicals will be located on the roof and would have to be 120 feet away from the building in order to remotely be seen. There is access thru the exterior of the building no storage in the basement. Existing hatch to attic will remain for service only. Duplex units will be front unit 1,678 square feet; middle unit 1,692 square feet and rear will be 1,431 square feet. Would have to be quite a distance away from the condensers in order to be seen from the street. The condensers are 10.2 feet from front and 11 feet from the side and are a little less than 2.5 feet (tallest units) higher than the parapet and is best location, but can be reviewed. No further way to shield although the original photo shows a higher section brick façade. If fully restored would be screened. Owner will further address. One duplex has two bedrooms and a study with windows, no setback and of neighboring building built above current one-story, however, the first property in place has priority and other development would have to design around.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with no one appearing and this portion of the hearing was closed and the matter referred back to the Board.

Anthony Gallerano, Harbor Associates, appeared and was sworn in. Credentials presented to the Board and accepted as an expert in the field of engineering/planning.

Mr. Gallerano through questions posed by Mr. Goodman testified as follows.
Received Maser engineering report and addressed items in the report.

- Required to provide 8 parking spaces;
- Intention of applicant to provide new water and sewer service to the building;
- Unable to provide a bicycle rack as nowhere to locate it except within the right-of-way and does not believe would be approved if requested;
- Lighting requirements have been addressed by the architect;
- The applicant is proposing to direct away from neighboring properties;
- Applicant acknowledges their responsibility to repair any damage resulting from construction to the right of way.

Two D variances, apartments conditional use, density is one unit for every 800 square feet of lot area and is not met proposes 758 sf. Also triggers a D variance for density. Setback requirement exists as 0 feet and existing building is 4 stories as exists. The waivers. Off street parking 8 spaces are required for 5 apartments, no parking required for restaurant. As of September 27, 2016, conditional use of ordinance amended to allow for appropriate Board to determine if parking obligation can be met thru municipal parking or obtaining private parking. Letter obtained from Russell Ludecker, Police Department, who advised there is no waiting list for overnight parking in the parking garage. Question of rule under submission law, application was not deemed fully complete until after September letter. Will review prior requirement and C variance, applicant was placed in parking list for 24-hour parking and 18 to 24 months out. Building is in proximity of train station resulting in less vehicles. At present, there is no parking provided, and proposal will require far less spaces than previous use of 138 parking spaces although gym could use into space at present as of right. Professional office would require 22 spaces.

Positive and negative criteria reviewed believes proposal advances the purpose of zoning. No substantial negative impact to surrounding area. Difference between D variances presented, site can accommodate the additional density – 42 square foot difference 5.3% deviation and minor. Master Plan provisions as well as Land Use Plan for the downtown district relayed.

Questions posed by the Board ascertained the following:

Confirmed tenants would be able to use the train station bike rack. Applicant will meet all fire suppression requirements which is one reason why new system is being installed. Wait time (18 months) for parking spaces is for all 8 spaces. First two apartments are ADA requirements, however, there is no way to address their parking needs as no way to facilitate on-site apartment, could apply to municipality for designated area on Alden to permit handicapped individual to have street side access. Duplex units will not be ADA compliant.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with no one appearing and this portion of the hearing was closed and the matter referred back to the Board.

Gerald Grillo, principal of applicant appeared and was sworn in.

Mr. Grillo through questions posed by Mr. Goodman testified as follows.

Confirmed his project and current owner of the property. Had conversation with the police department, made application for overnight parking on July 23rd for 6 spots, and

July 19, 2016 for two more spots. Lt. Davenport advised waiting list could be 18 to 24 months out. Since project will not be less than 18 months to completion. Overnight parking now has no waiting list in several lots 1, 7 and garage and read letter. Met with both this morning – list is reviewed twice a year, initially #181-187, currently 241 on the list.

Finishes on interior will be ultra-high end such as Riverfront and explained in depth. Units are very very large and bigger than some houses in Cranford. Had not thought about storage in the basement as restaurant uses quarter of basement for storage, however can accommodate storage for bicycles if Board believes necessary.

which is 30 feet, 120 is far beyond and will go on record to say if building inspector Mr. Grillo connections to the town were provided for benefit of the Board. Building is an anchor within the downtown and purchase opportunity became available recently. Complete overhaul and will be pristine when completed.

Garbage is pretty straight forward. Presently shared with the neighbor next door, good working relationship – two pick-ups for garbage per week and recycling once a week. Will have shared area for residential garbage in back of building and access through Alden Street. Will be on same three-day pick-up schedule.

Questions posed by the Board ascertained the following:

Purchased a year and 5 months ago and original intention was to have more income out of the building and looked at many aspects but believed proposed is best fit. At some point after built in 1902 was some residential in the upstairs. Anticipated construction time depends on indoor and outdoor that have to be separated maybe 7 to 8 months, very challenging project to keep going and get done on time. Timing of exterior work must be done during the restaurant's low periods. Roll off containers cannot be located in the parking lot due to easement, and will have to get permits from the municipality. The vacant store will be storage site for construction materials and help with access from the street. Anything disturbed with either be replaced or repaired. Will work with the Historical Commission during the renovation process.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with no one appearing and this portion of the hearing was closed and the matter referred back to the Board.

Mr. Marotta opened the application to the public for comments with the following appearing:

Rafino, owner operator of City Grill appeared and was sworn in. Building needs to be renovated and spoke with applicant excited for renovation which will help his business.

No one else appeared and this portion of the hearing was closed and the matter referred back to the Board.

DELIBERATION of APPLICATION #ZBA-16-019

Application #ZBA 16-019:

North Union Associates, LLC, Applicant

18-20 North Union Avenue, Block 192, Lot 5, Zone D-C

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Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

Believes owner has presented a good job to renovate, taking steps to address parking, will be benefit to the downtown and am in favor of the application. Concern with condensers on roof, but application has agreed to make certain cannot be seen from street. Applicant should be commended for keeping the renovation in historical prospective, residential would be best use for the downtown, parking is always an issue and applicant has incentive to provide parking and does not believe will be a burden to the township, upper floors have sat dormant for many years in a prominent location and proposal will be positive. Commend on presentation and paints a story of why people come into Cranford. Great plan and vision.

Motion to approve Application # ZBA-15-031 was made by Mr. Bovasso, seconded by Mr. Higgins with the following voting in favor of the motion: Mr. Marotta, Mr. Pistol, Mr. Bovasso, Ms. Hay, Mr. Higgins, Mr. Salomon and Mr. Weisgerber.

Application #ZBA 16-003: Continuation from October 24, 2016

7-Eleven Inc., Applicant

Jason Tuvel, Attorney

49 South Avenue West, Block: 473, Lot: 1, Zone: ORC Zone

Permit to construct a convenience store. The applicant proposes a new convenience store use on the subject property (§136-32C(1) NJSA 40:55D-70(d)(1); The proposed front yard setback for the principal building will be 22.7 feet along South Avenue West (§136-30 Schedule 1 Attachment 1); The applicant proposes expanding the existing building which has a non-conforming side yard

setback of 4.8 feet (§136-30 Schedule 1 Attachment 1§ 136-38B); The proposed parking spaces will be 162 square feet in area (§136-23.7(3)(a)(1); The proposed parking will be located in front of the principal structure (§136-23.7(3)(a); The proposed sign will project 6.25 inches from the wall of the principal structure (§136-23.10(4)(b)[3]; The proposed wall mounted sign will be located less than 150 feet from the adjacent residential zone (§136-23.10(4)(b)(1); The proposed freestanding sign shall: Have a sign area of 29.3 square feet; Have an overall height of 5.4 feet. Will be internally illuminated (§136-23.10(4)(f); The proposed loading zone will be located the front and side yard (§136-23.7(12)(b).

Jason Tuvel, appeared on behalf of the applicant. Left off on October 24th at which time residents/objectors' experts were testifying. Left off with their planner Peter G. Steck. Will cross-examine their planner as well as traffic engineer and thereafter open to public. Will be providing a summation.

Only substantive item left off at last meeting was lighting and whether they could be on dimmers, they can be and will work from the Board and will stipulate to 3500 kelvins as requested.

Objector's Witnesses:

Peter G. Steck, Planner, appeared and remained sworn in.

Mr. Steck through questions posed by Mr. Tuvel responded as follows thru cross-examination:

Confirmed last meeting was first meeting he attended and has been to the site twice. No other reports other than those presented at last meeting were prepared. Is not a member of American Institute of Certified Planners. Currently advises municipalities. Use to north of the property is a Walgreens, 10,000 square foot estimate, office building on same side that is approximately the size of the subject property and is a medical practitioner, next lot to east is a church and lot is about a third of the subject property. Presented uses and size of lots in buildings on the roadway. Walk the street to determine if occupied. Lots to the with wood frame dwellings are generally smaller than subject property and do not have frontages on more than one street, no light and one driveway per lot. Reviewed plans – has impervious surface of 86% and being reduced; landscaping existing now is being increased. Directly to west is street and bank that is on a lot bigger than the subject property slightly, to the west get smaller in size similar to those east of the subject site. Applicant is well under FAR but not measure of intensity of the site. Property is located in the downtown district, but that is not relevant to a use variance.

Board questions ascertained the following information:

Mentioned office building would more appropriate, governing body prohibited one-story building in zone. As a planner is it better to have multistory building with parking underneath – yes as it is one of the most intensive uses.

There were no questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with the following appearing:

Barbara Ehlen – Uses surrounding Walgreens contains residential properties but is in a completely different zone. Properties to east contain residential, one office building and other wood frame dwellings that have been converted to office use. Does not meet character of the building as two-story is required only one is proposed and does not meet standards. Proposal is to convert a pre-existing gas station which is reason for number of curb cuts, tanks have been removed and not replaced and any other use would require the curb cuts be removed and in his opinion is an improvement. Even in zone where anticipated as a conditional use would not meet those standards. This is a use that has to expand footprint of building, producing a blank wall to South Avenue and is a gateway area and does not rise to level of proof of meeting Medici criteria. No standards for conditional use in this zone. Number of dimensional and aesthetic issues. There is an existing nonconformity that is being intensified. There are alternate uses that have multiple curb cuts. Applicant acknowledges this is a Medici case where they must show substantial reliable information that explains why a use clearly prohibited would advance the zone and does not believe successful.

Frank Krause – Asked number of lots observed in residential zone – 19 or 20 lots in the ORC zone. Notified professional freestanding signs in front lawns. Generally, two stories in height many of which have residential feel and some may have residential use on the upper floors. Was recommended in Master Plan in 2009 and declared ORC few years later and was reaffirmed. Standard setback is 30 feet and those that were initially residential has a green lawn. To the south is a R-5 zone and all residential lots. ORC does abut the R-5 residential zone. R-5 zone would be impacted by proposal especially given 24 hour requested. Proposed setback is less than the residential.

Phyllis Howard – Why is land use variance such a big deal - short rendition is that governing body specifically designed what the convenience use is and prohibited this use from this zone out right. Believes substantially detrimental to area as well as Master Plan and Zoning. High intensity use is a proposal that includes higher number of lights, higher noise level, higher traffic, and open 24 hours of day and highest intensity of use found in a municipality.

Frank Kelly – heard testimony as to negative criteria and fact mention that proposal would be less intense use, requested Mr. Speck's opinion. The applicant's planner set forth testimony as to less impervious surface and lower FAR, however, they cannot be taken separate from the use variance. Proposal is not low intensity use. Proposal is for 24-hour use, and one of the measurements of intensity is amount of operating hours. Reference to increase in property value – does not remember that testimony, maybe of vacant gas station, but believes would be detrimental to neighboring properties. Mr. Tuvel interjected testimony as to property values was not presented by applicant's experts. Mr. Tuvel again stated question is geared more to the applicant's not Mr. Steck's testimony and would request questions stay in that purview. Unaware of any study that was performed as to benefit to the neighborhood. In his professional opinion, real impact is not necessary volume of traffic, in his mind it is car lights all night long and shining on houses in the area.

No one else appeared and this portion of the hearing was closed and the matter referred back to the Board.

Mr. Klein appeared and remained sworn.

Mr. Klein through questions posed by Mr. Tuvel under cross-examination as follows. Last meeting was first attended and he has visited the site once during peak hours. He did not prepare his own traffic study. Was not present when applicant or Board's traffic experts testified. Did not perform counts or traffic study. Reviewed traffic report prepared by Stonefield and Board engineer. Agrees with trip generation but not level of service as it does not take into que the additional demand that is waiting, but analysis was not presented in a report. In order to understand how the intersection operates, need to visit the site. Level C is acceptable. Individual pages from Exhibit was distributed Table 3 which is operational level of the intersection, delay in terms of second and the no build (if remains the same with growth over two years) the intersection would go up a second. Level of service analysis 24.3 seconds with 7-Eleven being built with a tenth of a second further delay during weekday morning peak. Evening peak at level service C, no build would be 28.8 second and if built goes down to 28 seconds. Next page is level of service at driveways – all levels are A, B or C. Built condition are all A and B. Highway capacity software is used to prepare report and agrees. In trip generation comparison, have 97 in and 97 out in peak hours and is consistent with Stone field. Pass-by trip is car already on the road. Convenience store has majority of pass-by use. Provided some other land uses in area, levels of service are .1 second difference for a convenience store how much better would it get?

Why was a a 1978 square office building, believed that was original space of building and should have been doubled. Did you prepare a trip generation for a gas station as to a convenience store – No. Believes auto repair use was formerly on site. Reviewed

turn limitations applicant has agreed to. Confirmed presently 4 driveways at present two on each frontage reduced to one m each and is better.

Provided accident data – yes, crash records for the last 3 years. Time period 9/1/2013 and August 2016 - 29 accidents. Agrees 28,000 vehicles per day, 30 million cars over a three-year period with 29 accidents. Did not compare to any statewide standards as to whether normal or not. Peak hour or peak hour of generator are prepared when representing an application.

Questions posed by the Board ascertained the following:

Pass-by traffic – yes there is a difference between peak hours and off peak times with more primary destination trips. Mr. Truvel advised 24 hours is matter for the governing and pending litigation and is not within purview of the Board.

There were no further questions posed by the Board.

Mr. Marotta opened the application to the public for questions of the witness with the following appearing:

Barbara Ehlen – Level of service increase of .1 second delay, indicated due to improvements to intersection, would office building have same impact after improvements and could be better than no built condition but that has not included in his report. Mr. Truvel advised on the South Avenue side complying with the County requirements and Lincoln Avenue side complying. Does not have specific information as to convenience stores or other uses causing more intersections. Impacts relayed, applicants would have to provide information as to traffic to the Board for consideration although not the hours of operation.

Dave Kaplan – Use such as 7-11 would create less safe when compared to a low impact office building – the number of trips as compared to pedestrians much lower for office use and much less of a chance for an accident although different comparison.

Phyliss Howard - Did not take into consideration of delivery trucks when evaluating the site. One second difference in level of service, is it realistic? When engineer performed analysis, disagrees as existing conditions as reflective of the analysis as does not include queing and involves operation of intersection. Two driveways proposed but are larger. Peak hours is proper way to perform analysis. No double lane parking and there were some side swipes noted in accident.

Wendy Walsh – Has photos of no left turn onto Lincoln and also no left on South Avenue - Question to 7-11 why cannot left hand turns remain. Advised Mr. Klein could

not speak on behalf of the applicant. Mr. Truvel responded can be discussed once Mr. Truvel is complete.

Craig McLemik – What affect does slowing of traffic – it would have an impact and would impede traffic flow if insufficient flow does not permit going around.

Frank Kelly - Driveway is going further south; those lights would be in residential zones. What about three-year accident report prior to Bank of America being constructed, believes many were contributed to BofA, will there be an increase if application were approved. The 3 years do not show accidents were due to traffic coming in and out of site, no direct correlation. Bank of America generates 19-24 trips in the morning and proposal would contribute 194 trips. Reiterated no direct correlation, but could be more accidents due to increase in traffic. Confirmed stats are during peak hours. Has an off-peak study been performed – would not normally perform such a study would be most intense traffic during peak hours and explained why.

Objector's photos collected by the Board.

No one else appeared and this portion of the hearing was closed and the matter referred back to the Board.

Objector's photos collected by the Board.

Next meeting would be public comments, summation and deliberations. Thank everyone for their attendance, input which is very helpful. Issue with scheduling next meeting as cannot be fixed date since Board members have to be reappointed, counsel appointed. Asked if reason that it cannot be carried to reorganization meeting in new year and then re-noticed during the meeting as to new date without need for formal re-notice. However, date for reorganization is unknown. Then will have to re-notice formally when date is set. Township does not send notice of the meeting, is listed on the township website or can call Zoning Officer in early January.

PUBLIC PORTION:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 11:10 P.M.

Jeffrey Pistol, Secretary