

## **MINUTES - PLANNING BOARD**

### **Workshop meeting of June 7, 2017**

The meeting of the Cranford Planning Board was called to order by Ms. Murray on June 7, 2017 at 7:45 P.M. in Room 108 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Ms. Murray announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader and/or the Star Ledger had been notified and the agenda posted in the municipal building as required.

#### **1. STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT**

#### **2. PLEDGE OF ALLEGIANCE**

#### **3. ROLL CALL**

##### **Members Present:**

Ms. Murray  
Ms. Anderson  
Ms. Steinbach  
Ms. Feder  
Mayor Hannen  
Ms. Pedde

##### **Members Absent:**

Mr. Chapman  
Commissioner Dooley  
Mr. Taylor

##### **Alternates Present:**

Mr. Aschenbach  
Ms. Didzbalis

##### **Alternates Absent:**

None

##### **Also present:**

Mark Rothman, Esquire; Ruthanne Della Serra, Interim Administrator/Scribe, Ron Johnson, Zoning Officer, Madeline Colandro, Interim Assistant

#### **4. RESOLUTIONS OF MEMORIALIZATION**

##### **Application #PBA-17-00003:**

**National Christmas Products, Inc. d/b/a National Tree Company, Applicant  
70 Jackson Drive**

**Block 627 Lot: 6.01 Zone: C-1**

**Site plan approval to permit interior renovation, install/reactivate loading doors and reconfiguration of the parking lot with the following waivers: less than the minimum required front yard setback (136-23.7(3)(a); no granite block (136-23.7(8)(g); no loading allowed in the front yard (136-23.7(7)(12)(b); sign not located were permitted (136-23.10(4)(c)(4); exceed the maximum allowable building coverage (136-30); and to exceed the maximum allowable lot coverage (136-30).**

After discussion, a motion to adopt the resolution granting site plan approval to Application PBA-17-00003 (as amended) was made by Ms. Steinbach, seconded by Ms. Pedde with the following voting in favor of the motion: Ms. Murray, Ms. Steinbach and Ms. Pedde.

**5. MINUTES**

Minutes of May 3, 2017 and May 17, 2017 were carried to next available meeting.

**6. COMMUNICATIONS**

1. Letter received from James P. Rhatican, Esquire, representing Hartz Mountain rezoning application requesting the hearing be carried from tonight to July 5, 2017.

After consideration of the request, a poll of the members indicated that several members would be absent, as well as the public attendance due to the holiday week.

Mr. Rothman provided legal process as to adjournment date selection due time frame limitations for benefit of the public in attendance and responded to various questions posed. Discussion as to having the hearing carried to the second meeting in July rather than July, 5<sup>th</sup> and impact of change without consulting the applicant. Announced that the Board will not have a quorum July 5, 2017 with motion made to carry the application to July 19, 2017 made by Mayor Hannen, seconded by Mr. Aschenbach and carried on unanimous voice vote.

For the benefit of those in attendance, Ms. Murray announced that Application # PBA-17-00004, Hartz Mountain Industries, Applicant, 750 Walnut Avenue, Block: 541, Lot: 2, C-3 Zone, Applicant is seeking to rezone the subject property to eliminate the office and warehousing uses in favor of multi-family residential use (136-13) would not be heard tonight at the request of the applicant and was being carried to July 19, 2017 without re-notice, unless adjourned again, in which case the applicant will be required to re-notice.

Hearing would be to make a recommendation to the Township Committee as to rezoning, approval or denial would be made, thereafter, made by the Township Committee whether to rezone. Section of Code 136-59 explains the process for a rezoning application which provides for 120 days for a Planning Board recommendation to be made and referred to the Township Committee.

## **7. OLD BUSINESS/NEW BUSINESS**

None

## **8. WORKSHOP PORTION**

- a. Roof top gardens/rain gardens can serve as a source of credits for inability to provide required landscaping and greenery and or storm water management capacity.

Mr. Johnson explained materials distributed to Board consisting of various ordinances from other municipalities that allow for roof top gardening in the ordinance. Purpose is to have the possibility for roof top gardens to serve as credits for open space and moving forward for sustainability within the Township. Should review Hoboken and Jersey City ordinances as well as NYC which includes assembly of the use which vary, and have different costs and construction. Can pick and choose from other towns as to provisions Cranford would like to include in an ordinance rather than use verbatim as it may not fit out township.

Concern with adopting as inclusion of development in future applications, as may cause intent to exchange ground level open space for roof top gardens, and do not wish that to occur. Can include a provision to prevent and is element of discussion for any proposed change i.e. limit to only be applicable to the downtown as example.

- b. Master Plan Re-examination.

As discussed, last Master Plan adopted in 2009 and reexamination is due in 2019, seems early but process takes very long time.

Motion to hire planner and engineer as well as legal expert to start the process, many ways to get started can: form a subcommittee, conduct stakeholder meetings; meet with different business holders, committees and come together for joint discussion. Can either hire professionals or start with subcommittee. If planner hired, would he not accompany into the stakeholder meetings – yes. Usually need planner with experience in Master Plan preparation and reexaminations as many times these functions are outside of scope of general planner. Township Committee would make funds available, but Planning Board would hire specific firm after presentation by each firm submitting an RFP. May wish to have members of the Planning Board and Zoning Officer's input on the contents of the

RFP. Is not a complete redo of the Master Plan, need to review and required change four elements that are state required, although others may be added.

Motion made to request the Township Committee to initiate the process to hire a planner to assist the Planning Board in the re-examination of the Master Plan was made by Ms. Anderson, seconded by Ms. Feder with the following voting in favor of the motion: Ms. Murray, Ms. Anderson, Ms. Steinbach, Ms. Feder, Ms. Pedde and Ms. Didzbalis. Voting in opposition to the motion: Mr. Aschenbach. Abstaining: Mayor Hannen.

## **9. PUBLIC PORTION**

Christine Esposito – Has questions about the July 19, 2017 hearing. Mr. Rothman explained cannot discuss the application as the applicant is not present and everything must be done properly according to law to ensure there is no “appearance of impropriety”. In any hearing, members of the public can cross-exam any witness during the hearing and also includes a public comment portion. If an application is put forth, can the community come forward, can they present a witness and represent themselves? Mr. Rothman indicated question asks the Board to give a legal opinion, should consult an attorney.

Lauren LaTorre – When public is allowed to speak at any meeting are opinions allowed to be presented? Public can offer comment in portion for designated for that purpose, questions of each witness would be asked first after the testimony of each witness, and at end of the applicant’s presentation, the public can present comments and time may be limited to allow for everyone present at the hearing to have the opportunity to speak. Has Cranford met their COAH obligations – yes. If she had land to develop and increased residences, is there a percentage that would have to be designated as COAH? Mr. Rothman explained not as linear as subject to many regulations and factors, Judge Crystal’s decision is located on website and can be reviewed.

Judy Rosenberg – What criteria constitute granting a variance? Certain burden that an applicant has to meet, however, the question should be presented at the hearing. Because of pending application, cannot respond. Can review zone code, procedure is outlined and any applicant would have to follow.

James Nalepa – If understood, Cranford has met COAH obligation, does that mean any applicant could not use COAH law to force Cranford to change the zoning. Mr. Rothman explained complicated question, current obligation is just that, current and applicant is in a community where fair share has been met, the town is immune to those types of suits which would be reviewed every year. Mr. Nalepa commented he does not wish Cranford to become Hoboken or Jersey City and understands why rooftop gardens are nice thing, but Cranford is a suburban community, and would be very disappointed if turned into either of these cities. Mr. Johnson explained proposal is a good option in that

rain gardens do contribute to stormwater management and the Township should look at additional ways to control and would be in line with State sustainability and take concrete steps to move forward. Ordinances referred to in workshop portion were for technical purposes only. Mr. Nalepa, regarding the adjournment request, advised he understands the carried date is a regularly scheduled meeting for hearing applications, however, public vacations are scheduled around school schedules in July or August, and guarantees large portion of public that will not be able to attend and appears as an intent to silence the public and its concerns.

Rita LaBrutto – Commented agreement with Mr. Nalepa as to roof top gardens and has issue if this is vision of the town, sounds like great idea, but when speaking of concrete steps, the town should make certain an engineer is at all hearings. Cranford is not Hoboken, Jersey City or NYC and should not be modeled after them. Believes this Board and Township Committee can challenge the Zoning Board's decision, as Master Plan issue was brought up at meeting and believes, should not be giving approvals when there are questions as to the Master Plan. Submitted OPRA request for documentation. Mr. Johnson explained professional reports are not a component of an application being reviewed for completeness. How would the public be able to review the reports if not available? Professionals are taking the extra time to review and with application not be heard as scheduled, additional time is being taken. Ms. LaBrutto wrote a letter in 2013, to Planning Board attorney at time Alan Barkin that was in relation to affordable housing and believes relevant. Will submit to Ms. Della Serra for forwarding to Mr. Rothman for review to deem if appropriate to distribute. Ms. LaBrutto asked if Planning Board is responsible for affordable housing plan itself and was advised Cranford is bound by Court decision.

Kimberly Goodwin – Asked if any residents who are unable to attend the meeting, how can they be heard. If the meeting runs late and continued to another hearing date, they can always appear at next meeting. Cannot submit letters or petitions for legal reasons.

Discussion among Board members re: time to make decision, if not within the time, why start on the 19<sup>th</sup> when there is time available.

Phyllis Kivett-Howard – Clarified that when witness is presenting their testimony, are questions only to be about their testimony – yes, but only when all the testimony is completed, public has opportunity be sworn in and present their comments as testimony. Procedure explained by Ms. Murray in detail for benefit of the public.

Jessica Orr – Asked when was the application deemed complete? Was advised, question relates to a specific application and legal issues that steps on applicant's rights. Generally, the Planning Board does not have the power to put off an application from being heard due to legal time frames that are imposed by MLUL and cannot go beyond those.

Treating one applicant differently than any other when scheduling a hearing is prohibited, especially if the Board has meetings after meeting that are open as it would be deemed discriminatory. Reiterated the Board cannot discuss a specific application.

Motion made for the Board to move into executive session was made by Ms. Didzbalis, seconded by Ms. Anderson with the following voting in favor of the motion: .

Ms. Murray, Ms. Anderson, Ms. Steinbach, Ms. Feder, Mayor Hannen, Ms. Pedde, Mr. Aschenbach and Ms. Didzbalis.

Motion made to return to open session was made by Ms. Feder, seconded by Ms. Anderson with the following voting in favor of the motion: .Ms. Murray, Ms. Anderson, Ms. Steinbach, Ms. Feder, Mayor Hannen, Ms. Pedde, Mr. Aschenbach and Ms. Didzbalis.

Mr. Rothman will not be available for August 2, 2017 meeting. All members to provide Ms. Della Serra with vacation schedules.

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 10:00 P.M.

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Ann Steinbach, Secretary