

## **MINUTES - PLANNING BOARD**

**Meeting of August 19, 2015**

**WORKSHOP PORTION.** Ms. Anderson called workshop portion of the meeting to order at 7:40 P.M.

### **1. COMMUNICATIONS:**

1. Letter to Mayor Kalnins from OurHouse looking for opportunity to discuss Fair Share Housing Plan explore in becoming part by developing homes for ADA.
2. Recent edition of NJ Planner.

### **2. MINUTES:**

Motion to adopt the minutes of July 15, 2015 (as amended) was made by Ms. Pedde, seconded by Ms. Murray and passed on voice vote.

### **3. RESOLUTIONS OF MEMORIALIZATION**

None

### **4. OLD/NEW BUSINESS**

None

Workshop portion adjourned at 7:47 P.M.

## **PUBLIC HEARING - ROOM 107**

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

Ms. Anderson called a public meeting of the Cranford Planning Board to order on August 19, 2015 at 8:00 P.M. In Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Ms. Della Serra announced that this meeting is a regularly scheduled meeting as contained in its annual schedule adopted by the Planning Board and published in the designated newspaper as soon as possible after the Board's reorganization meeting. In accordance with the terms and conditions of the Open Public Meetings Act, adequate notice of this meeting's agenda has been provided through publication specifying the time, place and matters to be discussed/heard with the agenda having been filed with the Township Clerk and posted on the municipal bulletin board where such notices are normally posted as required. Formal action may be taken.

### **2. FLAG SALUTE**

### **3. ROLL CALL**

**Members Present:**

Ms. Anderson  
Ms. Murray  
Ms. Steinbach  
Mayor Kalnins  
Ms. Pedde  
Mr. Taylor

**Members Absent:**

Ms. Feder  
Commissioner O'Connor  
Mr. Aschenbach

**Alternates Present:**

Mr. Petrucci

**Alternates Absent:**

Ms. Didzbalis

**Also present:**

Nicholas Giuditta, Esquire and Ruthanne Della Serra, Administrator/Scribe.

1. **Applicant #PBA-15-00004:**  
**MD Developers, LLC, Applicant**  
**124 Spring Garden Street, Block 173, Lot 26, R-1 Zone**  
**To permit subdivision approval with less than the minimum required lot width for lot (required 80.00 feet, proposed 74.96 feet) (§136-30, Attachment 1, Schedule 1).**

Communications consisted of the following with same being received and reviewed by the applicant who waived formal reading.

1. DRC Memo dated June 24, 2015;
2. Traffic and Safety memo dated June 26, 2015;
3. Environmental Commission report July 14, 2015;
4. Cranford Fire Department report dated June 22, 2015;
5. Cranford Heath Department memo dated July 14, 2015;
6. Historical Preservation Advisory Board dated July 7, 2015.

Mr. Petrucci recused himself.

Planning report prepared by Robert Hudak also distributed.

Carl O'Brien, Maser Consulting, Township Engineer, also present.

Joseph A. Paparo, Esquire appeared on behalf of the applicant. Application is for a request of minor subdivision with one variance, for two new lots to construct two new homes on both parcels. Only one lot requires the variance to permit 74.96 feet. Building envelopes are depicted for information only showing no other variances, both lots exceed area requirements. Single family homes are permitted in this zone.

Victor E. Vinegra, Harbor Consultants, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of professional engineering, planner and land surveying.

Exhibits numbered – A-1 same as Sheet 2 existing conditions  
A-2 same as Sheet 3 proposed subdivision  
A-3 blow up of tax map aerial  
A-4 and A-5 photographs taken by Mr. Vinegra on 8/19/2015  
and are as exist today

Older home in community for quite some time with large 28,000 square foot lot in the R-1 zone. R-1 requires larger lot width and meanders its way between r-4 and r-3. Client is seeking to create two lots more in keeping with neighborhood, one totally conforming (14,000 square feet Lot 1) and other lot is larger in lot size but property lines are not parallel (14,480 square feet lot 2) – zone requires 12,000 square foot lot. Issue is that lot gets wider going from front to back with frontage required of 80 feet and applicant is proposing is 74.96 feet. Minor variance for lot frontage, lots are larger than required and larger than existing in neighborhoods. Walked thru neighborhood and included sections of Garden Street, Tulip, Greaves. Approximately 64 lots in neighborhood and proposed lots would be larger than 89%. Just including sites in R-1 is larger than 80% in area. Very few lots in area that are conforming. In R-1 zone only 38% conform to entire ordinance requirements.

Flexible C-2 variance, Kaufman v. Warren – as long as in keeping with neighborhood and keeping with the ordinance, in his professional opinion, would not impact Master Plan or Zone Plan and reasons explained in depth. Second prong is how does proposal fit into the neighborhood, does not deviate from the look and feel of the neighborhood as lots will still be in excess of 90% of lots in area. Creation of 2 lots would be more in keeping with the area. Photograph A-4 explained which depicts adjacent lots to left and right of site and across the street. Photos are of wider lots in the area and proposed lots will be larger in size and dimensions than those existing. Existing impervious is about 8,600 square feet with roof leaders directly onto grass. Coverage would only be able to go slightly larger and any new coverage would have to be detained. In his opinion since would be omitting 8,600 square feet that is not detained and would be adding detention would be an improvement and in compliance with the storm water ordinance with plan submitted during the permitting process.

Confirmed lot 1 is fully conforming and proposed development would also be fully compliant with all bulk requirements. Lot 2 requires minor variance as lot fans from front to the rear with lot width exceeded further back. No detriments. House could potentially be constructed in the widest part of the lot. Explained Cranford's ordinance treats lot width as frontage, while other municipalities are by average and if calculated in that manner the lot would meet all bulk requirements.

Has reviewed the reports prepared by municipal professionals, and should note the Planner report also cites Kaufman case. Mr. Vinegra indicated that case is widely used by planners and very common case for minor variances and in this case there is no detriment let alone substantial detriment.

Questions posed by the Board ascertained the following:

Existing structure has 8,600 square feet of impervious surface, new construction will be properly managed. Confirmed maximum would be up to 9800 square feet and would be properly managed as per ordinance requirements. Roof leaders will be tied to storm water measurers. Mr. Paparo further explained would actually consider impervious surface post construction and could possibly be less than 8,600 square feet. Confirmed not necessarily going to 9,800 square feet, rather is the maximum that is allowed by code. With regard to tree removal, Mr. Vinegra advised since plans are not paid out yet, some may be removed, but will try to save as many as possible of the mature plantings. The trees along the flume will not be impacted and conserving the trees. With regard to flooding, property was not affected by last two storms to his knowledge, has no information if the neighborhood was. Property is not located in a flood zone. Explanation of the "flume" was provided as a method of moving water and has since stopped being used in development as natural banks are now preferred. A-1: Flood zone X – is a DEP zone recognizing that "ponding" may occur– do not need flood insurance in Zone X. Township Engineer will approve the drainage plan for each lot.

Mr. Vinegra explained that an excess of 7 mature trees are shown on existing plan, but not on proposed plan as the submission is actually a subdivision plan for filing with the county not a grading plan with tree preservation done at that time and reiterated would prefer to save as many trees as possible. Mr. Paparo further explained if the Township has a tree ordinance that would also be met during the permitting process. Mr. Vinegra confirmed replacement is usually one to one or two to one replacement ratio.

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with the following appearing:

William Kugelman – questioned existing impervious surface at approximately 36%, with Mr. Vinegra advising he actually said 8,600 square feet not a percentage, will trust calculations. No architectural construction drawings submitted as they are not required at

this point, subdivision can occur and the Boards do not need to see house types, those will be reviewed by engineer, zoning officer, building. Mr. Kugelman believed the Board does not have the ability to determine whether the homes will impact the neighborhood without plans. Mr. Vonegra confirmed maximum impervious surface allowed is 35% by ordinance for each lot and explained could get same amount of coverage on the one existing lot as two. Mr. Kugelman stated he has reviewed the Master Plan, particularly page G3, which encourages preservation of existing homes and to limit development. In reviewing testimony stated that in proposed development, the drainage would be directed to the flume, and asked if any analysis was conducted on flume capacity with Mr. Vinegra stating he is not aware of any calculations performed, but would not have to perform or be aware of the calculations as methodology for designing flumes has not changed. Proposal is for minor amount of water, while the flume can handle far more. Mr. Vinegra advised he has looked at the flume, but is not aware of size, when constructed or by whom. Mr. Kugelman asked if aware that parts of the area flooded prior to the construction of the flume or that it may no longer be considered a flood zone because of the construction of the flume.

Mr. Paparo objection stating there is no evidence there is problem with flume and testimony is not relevant to a width variance.. Mr. Giuditta advised Mr. Vinegra was not offered as expert as to the flume. Mr.. Kugelman further objected stating the flume is at issue for this application, as flooding may impact the neighborhood. Mr. Giuditta explained issue of the flume is not the "core" issue before the Board which is a width variance. Mr. Paparo objected as no testimony presented and not here for a impervious surface variance. Mr. Kugelman countered that without showing dimensions of the actual building, left to assume builder will build to the maximum allowable. Explained by the Board Chairman, that if one home would be developed on the site, it would result in the same coverage.

Mr. Vinegra indicated he cannot state how many trees would be removed at this time. Does not see why demolition would require the removal of the 4 trees to the front of the property. Construction activities and effect of the property were questioned in depth. Mr. Vinegra confirmed would abide by the Township storm water management plan. Did not take photographs of the flume.

Confirmed Exhibit A-4 represented adjoining properties. Size of lots explained. Mr. Kugelman referred to 70 Spring Garden Street (his property) that may be 12,000 square feet if not more.

Mr. Paparo followed up with Vinegra who confirmed testimony regarding drainage would not change if two conforming lots.

Monica D'los Rios – lived in house till July of last year and can testify as to flooding of the property.

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for comments, with the following appearing:

Judith Kugelman, appeared and was sworn in. She joins in arguments previously stated by William Kugelman. Personal opinion is that the neighborhood would be impacted. Opposing for additional reasons as proposal to replace existing with two single family homes, will increase density of this street. Street as a whole has areas of open space, Spring Garden Street has a reputation of being one of the most attractive streets in township. The township values open space as contained in the Master Plan and open space was addressed as well as residential homes, with plan to encourage preservation of existing structures and limit housing that expand density. Interspersed in the neighborhood are areas of open space and should be considered as a whole. To replace one dwelling with two structures in this spot, talking about more than a few feet, but about doubling the density in this area, doubling the cars, level of activity and people. From Estelle to Tulip there are no sidewalks with large amount of pedestrian traffic and families playing. Putting another house doubles the amount of traffic in this area. To shoehorn two houses adversely affects the homes in the area. Will change the character of the neighborhood that has a variety of home at present, this house has been there for at least 50 years with mature trees. Master Plan encourages preserving existing trees, to replace with smaller will take away from the look of the community. In summary opportunity to preserve open space, Master Plan sites goal to balance investment. Respectfully request variance be denied.

Eric Estok, appeared and was sworn in. He stated joins with Mr. Kugelman's objections. Flume runs directly behind his property and has additional 10 feet that he cannot enjoy due to flume. Moved into home in 1994, and during heaviest rain storm flume would rise 5 or 6 inches. From 1998 on, there has been significant increase in water in the flume due to a variety of new development. During Irene, the flume was 3 inches from cresting. Today received 3 to 6 inches of rain with 22 and 78 closed and flume was 1/4 full. Flume is 10 feet wide 6.5 feet deep. Does not believe can handle much more impact. Concern with drainage, has not had issue with ponding in his yard.

Laura Peebles, appeared and was sworn in. Also lives across the street, her property is 16,000 square feet and is one of larger lots not pictured here. Know no one wants to address flooding on street, and lived thru Floyd on Henley with getting flooded out and is concerned about flooding on Spring Garden Street as if it should flood, does not have flood insurance and therefore no coverage.

Rosemary Stock, appeared and was sworn in. Believes others have covered all and agrees with what is said. Objects as development will damage the area.

Kevin Downing, appeared and was sworn in. Father lived in the Spring Garden property and spoke of keeping the house in family, could not with his passing. Thought what applicant was going to do would help the neighborhood, father loved the

neighborhood and does not want any kind of strife with the neighbors. Father wanted decision to benefit the neighborhood, assuming development less of an attraction is wrong and believes development would be a benefit to the area.

William Kugelman, appeared and was sworn in. What was seen as checked off in the application was a C-2 variance. Kaufman is seminal case, but also speaks a variance should not be granted when purposes of applicant only would be advanced. Must represent better zoning alternative and focus on the property and benefit to the community. Does not believe would benefit the community, here only purpose is applicant's economic gain. Detriment to neighborhood properties, while drainage plan is not required by this Board, this Board has the ability to place conditions separate from approval and requests the board to consider. So that we know now if adverse impact of potentially creating a flooding condition. Also takes exception to applicant not presenting drawings and plans as the Board is entitled to review impact of proposed structures on the neighborhood and would recommend the Board consider that. Another case (denied certification) found that even though homes were within zoning code but out of character with neighborhood. Although does not have to provide the plans, applicant has not met the burden of proof and at the least application should be carried until analysis for storm water is available. Proposal will enhance or impede drainage and should take into account Army Corp of Engineers studies. He has requested the analysis from 1980. Remembers what Irene did. Applicant has not met his burden of proof and should be denied.

No one else appeared and the matter was referred back to the Board.

Broad questioned Mr. Vinegra and confirmed testified the maximum impervious would be 8,656 square feet, increase of 35% or each lot would be an additional 1,312 square feet maximum.

Mr. Paparo presented his summation. During break had opportunity to speak with the applicant, applicant will stipulate that the lot coverage will not exceed 8,656 square feet. Understand concern expressed by neighbors as change is scary, would submit that this application involves the creation of two lots that far exceeds requirements. Here for 5-foot deficiency in frontage as the property fans out. Concerns raised did not deal with the frontage deficiency, applicant is not requesting relief for any of the concerns expressed. Need to focus on the variance requested. I would respectfully indicate if fully conforming without deficiency, would have same concerns, but in this case the concerns do not go towards the variance. Negative criteria is whether the variance or frontage shortage contributes to the variance requested. Must comply to the storm water management, not seeking more density than allowed. Proposal is more consistent and in keeping with the neighborhood and represents a better zoning alternative than the existing lot and is what Kaufman speaks to. Evidence presented demonstrates the two lots are more in keeping with the neighborhood and Master Plan, to decide otherwise would be arbitrary and capricious. In summary based on evidence presented, would request application be granted.

**DELIBERATION OF Applicant #PBA-15-00004:**

**Applicant #PBA-15-00004:**

**MD Developers, LLC, Applicant**

**124 Spring Garden Street, Block 173, Lot 26, R-1 Zone**

**To permit subdivision approval with less than the minimum required lot width for lot (required 80.00 feet, proposed 74.96 feet) (§136-30, Attachment 1, Schedule 1).**

Ms. Anderson reviewed the testimony presented.

Mr. Giuditta gave Board overview of granting of C-2 variance and preponderance of the evidence. Law that should be considered here is contained in MLUL and read from the statute with regard to positive and negative criteria. What is at issue here is the variance that is being sought (one for lot frontage on one lot) and whether that can be granted without substantial detriment and better alternative. Other consideration is whether it has heard testimony from public that lot width deviation would be detrimental to the neighborhood and whether applicant has presented testimony otherwise.

Board discussion consisted of the following:

As far as flooding concerns, sees no difference whether this lot is subdivided or whether someone comes in and rebuilds a house that went to the 35% lot coverage (impervious surface) which could be done without coming before any Board and should be considered. Other would be the neighbors bringing up the character of the neighborhood and adding to the character and would propose as a condition of approval, that houses built should be in character of Cranford and do not mirror each other. Rear line of lot 2 is 90+ feet, average of two would be 82.7 feet, 4-foot deficiency does not see that as creating a negative impact on neighbors. Very difficult when so many from the public come out, is a particularly lovely majestic street, but also charged with following the law, very sensitive to flooding issues, engineer is here tonight and have a very good storm water management ordinance and will be addressed in the permitting process. Impressed the applicant has agreed to not exceed the current coverage as well as a 2 to 1 tree replacement with compelling arguments. Concerns must relate to the relief requests before the Board. Agree with a lot that was said by objectors, but any development over 400 feet would require a storm water plan and meet ordinance, zone would be better served. Must also be a substantial detriment, and is concerned with what will happen to a very large parcel of property that can be improved by right.

Mr. Paparo clarified if house is pushed back to 80 feet would require more driveway resulting in more lot coverage (impervious surface) and therefore could not meet both.

Motion to approve Application PBA-15-0004 was made by Mr. Taylor with the following conditions:

1. Impervious surface will not exceed 8,656 square feet for both lots
2. Will comply with tree ordinance will replace at 2 to 1 ratio.



3. Trees will not be removed along the flume.

The motion was seconded by Ms. Pedde with the following voting in favor of the motion: Ms. Anderson, Ms. Murray, Ms. Pedde and Mr. Taylor. Voting in opposition to the motion: Ms. Steinbach and Mayor Kalnins.

**2. Applicant #PBA-15-00007:  
Strength & Fitness, LLC, Applicant  
570 South Avenue East, Block 534, Lot 1 and Block 533, Lot 19, C-2 Zone  
To permit waiver of site plan approval with less than the required on-site  
parking spaces provided (§136-39, Parking, Schedule 1).**

Communications consisted of the following with same being received and reviewed by the applicant who waived formal reading.

1. DRC Memo dated July 24, 2015;
2. Traffic and Safety memo dated July 27, 2015;
3. Environmental Commission report July 30, 2015;
4. Cranford Fire Department report dated August 4, 2015;
5. Cranford Heath Department memo July 27, 2015.

Planning Report prepared by Robert Hudak also distributed.

John DeMassi, Esquire appeared on behalf of the applicant. Three witnesses. Architect, Thomas DiGiorgio and Planner, Victor Vinegra. Came before the Board about a year ago and approved for a global variance for parking, based on one space required for 200 square feet and any use at the site would be in compliance. Reason here is because ordinance effective in December 2014 resulted in substantial changes to zone. Fitness centers are now permitted in zone, however, the ordinance now requires one space for 150 square feet and is reason why here before the Board. Ordinance now also encourages shared parking and should be considered and is consistent with the Master Plan.

Doug Petschow, Applicant Appeared and was sworn in. He is owner operator of Strength & Fitness Club. History and operation of the fitness facility started in 2008 was explained. Discussion regarding expansion and since a family gym, a lot of children were using the facility for sports training, but due to training needs, most parents were taking their children to other facilities. His goal was to keep in Cranford and believes the proposal would be a great opportunity for Cranford. Researched about 40 turf facilities and explained manner in which he corrected deficiencies. Will be leasing 6,000 square feet of space next to his gym and is where the sports turf will be located. Busiest from 6:00 PM to 8:00 PM but operating throughout both weekdays and weekends. Is also part owner of the business complex and familiar with other tenants. Site is most busy from 9:00 AM to 5:00 PM. New facility will be used primarily by children and who will arrive by either walking, biking or driving. About 800 gym members and many do in fact walk. Has never been a situation when the parking lot has been completely filled. At night, the lot is wide open, 385 spaces. Site is now at 73% impervious surface coverage, and every new space would be an increase.

Questions posed by the Board ascertained the following:

Previous use of the space (actually two spaces) part office and warehouse. Hours of operation would consist of mostly children, most would not be driving or would be dropped off although they could stay and watch or carpool. Mr. DeMassi confirmed will have coaches at the facility - Cranford Varsity, JV and Freshman coaches as well as the Cranford Baseball leagues. For most part is training and conditioning, not necessarily eliminating birthday parties, but that would be in the future. Overflow parking has not ever been really needed, but there is parking behind the building.

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with no one appearing and the matter was referred back to the Board.

Thomas DiGiorgio, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of architecture.

He explained the interior fit-out of the new facility. Consists of roughly 6,000 square foot addition to the existing gym. Exhibit P-1 is floor plan and depicts existing warehouse and creation of two batting cages and four pitching tunnels. Will have a viewing area if parents wish to remain and also area for children to wait their turns. Two office areas are noted two exist on plans. Batting cages and pitching tunnels are 4700 square feet. Entire building has fire suppression system. Equipment is moveable. LaCross team can use the facility for training area. Surface consists of astro turf (glue down) and will comply with all codes. Exhibit P-2 is exterior elevation of the building. Replacing existing door and adding sign above door that will be in compliance with requirements. There are no other exterior changes to the structure.

There were no questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with no one appearing and the matter was referred back to the Board.

Victor Vinegra, Appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of planning.

He prepared a parking analysis. Variances were previously obtained for parking. At both times parking counts were conducted as well as for this application. Conducted this week on Monday, Tuesday and Wednesday. Has witnessed first hand the operation of the gym as family holds a membership. Has 385 existing spaces. Counts revealed: early morning – most vehicles from State agency come in at 8:30 AM when early gym members are leaving. Approximately 4:00 PM Monday – vacancy count was 71 spaces in lower lot, upper parking field empty with other spaces in between. From 11:20 AM and 4:00 PM on Monday, 158 spaces were empty. Rear lot is usually empty. Tuesday at 9:00 AM total of

224 empty spaces; Wednesday at 11:20 AM there were 153 empty spaces; at 4:30 there were 194 empty spaces. Variance requested tonight is for 27 spaces. Ordinances recognizes gyms but not baseball facility and baseball is much less intensive use than a fitness center. At no time did he see issue with parking and not being able to provide parking for those 27 spaces. Mixed-use facility with different draw times on parking. Facility is never fully empty and based on physical analysis has not seen any issues with the parking on site. Applicable cases recited as to C-2 variance request that allow fewer parking spaces in commercial facilities, and enabling the applicant to build in character of the neighborhood. There is no substantial detriment to the Master Plan of Zoning Plan. Also provides the ability to use shared/flexible parking. Also recognizes municipal ordinance (portion read into the record) permits staggered hours and shared parking rules. Site is operating at a level much lower than the required versus used parking demand.

This use is a training facility and could possible by an inherently beneficial use. Planning report indicates proposed use is preferred over previous use, and ordinance speaks of recreation uses, which the proposal promotes.

Negative criteria – no negative impact to the ordinance and zone plan, does not propose any detriment to the community and referenced sections of the MLUL. Expansion of a healthy fitness club into other aspects, less of this nature and is a demand for this use and benefit when located next to a gym.

Questions posed by the Board ascertained the following:

23,000 square feet vacant and would require 99 spaces and is included in the counts performed. Even if 100% occupied, and without use of shared parking, is still sufficient parking to meet 100% occupancy and proposal. Use projected for vacant spaces require higher number and used those conservative numbers in all calculations. Mr. DeMassi confirmed last time requirement was one space per 200 square feet which is most intense calculations. Did not believe there would be issue with drop offs by walkway as well as different driveways, long enough distance that would not result in stacking.

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with no one appearing and the matter was referred back to the Board.

Ms. Anderson opened the application to the public for comments with no one appearing and the matter was referred back to the Board.

Mr. DeMassi presented his summation.

**DELIBERATION OF Applicant #PBA-15-00007:  
Applicant #PBA-15-00007:**

**Strength & Fitness, LLC, Applicant**  
**570 South Avenue East, Block 534, Lot 1 and Block 533, Lot 19, C-2 Zone**  
**To permit waiver of site plan approval with less than the required on-site**  
**parking spaces provided (§136-39, Parking, Schedule 1).**

Ms. Anderson reviewed the testimony presented.

Good use of property, parking is offset, better use than what previously existed.

Motion to approve Application PBA-15-0007 was made by Mayor Kalnins, seconded by Ms. Murray with the following voting in favor of the motion: Ms. Anderson, Ms. Murray, Ms. Steinbach, Mayor Kalnins, Ms. Pedde, Mr. Taylor and Mr. Petrucci.

**5. PUBLIC PORTION**

NONE

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 10:43 P.M.

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Bobbi Anderson, Chair