

MINUTES – ZONING BOARD – October 26, 2020

The Cranford Zoning Board of Adjustment meeting scheduled for Monday, October 26, 2020 at 7:30 p.m. was conducted virtually in order to avoid potential impacts from Covid-19.

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided to the Westfield Leader and the Star Ledger with the agenda specifying the time, place and matters to be heard having been posted on a bulletin Board in the Town Hall reserved for such announcements and the filing of said agenda with the Township Clerk of Cranford. Formal action may be taken at this meeting.

The workshop portion of the meeting was called to order at 7:30 p.m. by Mr. Marotta, Chairman.

ROLL CALL:

Members Present:

Mr. Marotta
Ms. Daly
Mr. Aschenbach
Mr. Ashrafi
Mr. Lucas
Mr. Quinn
Mr. Salomon

Members Absent:

None

Alternates Present:

Mr. Savino
Mr. Rees

Alternates Absent:

None

Also in attendance: Mark Rothman, Esquire, and Kathy Lenahan, Board Administrator, Jacqueline Dirmann, Board Engineer and Greer Patras, Board Planner

COMMUNICATIONS:

None

MINUTES:

Motion to adopt minutes from the September 21, 2020 meeting was made by Mr. Aschenbach, seconded by Ms. Daly and passed on unanimous voice vote.

RESOLUTIONS:

None

OLD/NEW BUSINESS

None

The workshop portion of the meeting concluded at 7:35 p.m.

PUBLIC PORTION:

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on October 26, 2020 at 7:45 p.m. via **Google Meet**. 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.

1. Application #ZBA 20-001
Applicant: SEAK Holdings, LLC
189 North Avenue East
Block: 312 Lot: 13 ORC Zone
191 North Avenue East
Block 312 Lot: 12 ORC Zone

Applicant is requesting a d(3) Conditional Use variance for the conversion of an existing 1 ½ story rear structure from a machine shop/clock manufacturing business to a single family rental unit, where a principal nonresidential use must be located on the ground floor of the building §255-39B(22)(h).

Gary Goodman appeared and explained the application. Stated Dr. Mehdi Saber runs a dental practice at 191 North Avenue East. He purchased 189 North Avenue East which is adjacent to his practice. Property has a one family house and in the rear, there was a workshop that manufactured clocks years ago. Applicant would like to make that rear building into a one-bedroom apartment. The zone is ORC but the front building follows the R-5 use. The rear building follows the ORC zone. It does not meet the one condition for commercial use on the first floor. The other issue is there will be two separate buildings on one lot and could trigger a d(1) use variance. The Planner's report lists it as a design waiver, but after talking to the Township Attorney and Zoning Office applicant is applying for a d(1) and a d(3) variance.

Tony Gallerano appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert in Engineering and Planning.

Questions from Mr. Goodman to Mr. Gallerano ascertained the following:

Reviewed the site plan. Stated there is a single-family dwelling in the front and a small dwelling in the rear. Lot 12 is part of the application due to common access between the two properties. All parking for Dr. Saber's office is on his office property. Reviewed the existing non-conformities for 189 North Avenue. Building in rear is conditionally permitted for residential use in the ORC, but needs non-residential use on first floor. Since there will be no commercial on first floor, they are seeking a d(3) variance. Reviewed the design waivers for the two principle buildings including the pre-existing conditions. There are no improvements proposed other than striping for the parking. Applicant will produce additional signage for parking and a "do not enter" sign along the common driveway.

Questions from the Board for this witness ascertained the following:

Will continue to have cars park in same configuration. There will be 4 spaces along curb line adjacent to the single-family dwelling. Will be striped with signs for residential parking. There is no site lighting plan but will be residential type for entrance and exit. Would be wall mounted to the structure. There is a solid white fence. Impervious coverage proposed is 53.4% which conforms to the ORC Zone but the R-5 Zone only permits 45%. Applicant believes there is only a d(3) variance required. Applicant also noticed for a d(1) variance based on discussions with the Board Attorney.

Mr. Marotta asked if anyone from the Public wanted to ask questions of this witness, no one appeared.

Due to some technical difficulties, Mr. Goodman reviewed some of the architectural aspects of the application. Stated the unit is a one-bedroom and conforms with the standards. The exterior remains the same; applicant will do some work in the front area. There are no exterior changes anticipated. Drawings indicate what is proposed.

Mr. Gallerano stated the floor plan has a loft over the second level. There will be one bedroom on second level which will look down on the first level. Open living room with stairs up to bedroom. Single bathroom on first floor and bedroom will also have a full bath. There will be a kitchen with an island and open floor plan to dining room. Will preserve the character of the property.

Questions from the Board for this witness ascertained the following:

The location lends itself to residential. There is no exposure to main road. Other permitted uses could be an office or repair shop. A one-bedroom unit would only generate one or two cars.

Dr. Saber appeared and was sworn in. He stated there was a clock shop with heavy machinery at the location. There were deliveries that would come and go. In front of building, they would use his driveway entrance and U turn and park parallel in their driveway.

Questions from the Board for this witness ascertained the following:

Back building has side area with small patio. They would make that as part of their private yard, which is nicely manicured.

Board had no questions for Dr. Saber.

Mr. Marotta asked if the Public had any questions of this witness, no one appeared.

Mr. Gallerano stated he believes it is a d(3) variance. But if it is a d(1) variance the proofs are that the building wants to be residential versus commercial due to setback from road, less deliveries, no negative on surrounding properties. Purpose of Zoning falls under "M" for more efficient use of land. Stated there is no detriment to the Master Plan or Zone Plan. Does meet proofs for the d(1) which is a higher standard.

Questions by Board ascertained the following:

Not aware of a study done for any chemicals used at the property. They will agree to have a cross access easement between the two properties; a reciprocal easement. Curbing will stay in place and no additional curbing is required.

Mr. Goodman stated they did due diligence and a home inspection when the property was purchased. Also did a tank sweep when acquiring the property.

Ron Meeks appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert in the field of Architecture.

Questions from Mr. Goodman to Mr. Meeks ascertained the following:

Stated the footprint of building is two rectangles with a common wall. It is 840 sq. ft. Existing front has a loft of 1/3 of the area and rear has loft of about 1/2 the area. There is a half bath in the back. Both will be

removed. New stairs are being proposed. Kitchen with island will be added with a dining area. Second floor will be constructed with full bath. Only exterior change is new windows, and garage doors in rear front portion will be changed. Footprint not to be expanded.

There were no questions from the Board or the Public for this witness.

Mr. Goodman summarized the application. Feels proposed use fits in better with the neighborhood.

Board member asked about Board Engineer's letter and if the applicant will comply.

Mr. Goodman stated that the applicant will comply with all the Board Engineer's comments.

Greer Patras, Board Planner appeared and was sworn in. Stated she has a concern with the parking spaces closest to shared property line on both sides and the access to those spaces. Has no issue with the use. Possible opportunity for shared parking. Might be safer to remove one of the parking spaces at rear or reconfigure or restriped so the parallel space is not locked by the perpendicular space. Stated concrete block is not usually permitted on a residential building. Suggests materials be used to complement the front building. Also feels a condition of approval would be that the applicant abandon the commercial use on the record. Any future commercial use for that property would need to come back to the Board. There is ivy existing, if any ivy is removed or new materials are added, should make sure they are complimentary to the building in the front.

Dr. Saber stated they will abandon the commercial use in the rear and would return to the Board for any approvals for future commercial use.

Mr. Meeks stated the front portion is cement stucco. Stated colors will match in the front. The rear portion is a decorative block.

Mr. Marotta asked if anyone from the Public wished to speak for or against this application. No one appeared.

2. **DELIBERATIONS of** Application #ZBA 20-001
Applicant: SEAK Holdings, LLC
189 North Avenue East
Block: 312 Lot: 13 ORC Zone

Applicant is requesting a d(3) Conditional Use variance for the conversion of an existing 1½ story rear structure from a machine shop/clock manufacturing business to a single family rental unit, where a principal nonresidential use must be located on the ground floor of the building §255-39B(22)(h).

There were no comments from the Board.

Motion to approve the application with the conditions: including the parking arrangement, easement agreement, exterior of building stays as is, any changes will have matching colors and there will be proper signage for parking, was made by Mr. Aschenbach seconded by Mr. Ashrafi and passed on roll call vote:

Affirmative: Mr. Marotta, Ms. Daly, Mr. Aschenbach, Mr. Ashrafi, Mr. Lucas, Mr. Quinn,
Mr. Salomon

Opposed: None

3. Application # ZBA 19-020 – Continued from October 5, 2020
Applicant: NATC Donuts Inc.
49 South Avenue West
Block: 473 Lot: 1 ORC Zone

Applicant is requesting preliminary and final site plan approval, a d(1) use variance, numerous “c” variances as well as design waivers/exceptions for a drive-thru restaurant.

Mr. Paparo appeared and summarized the previous October 5th meeting. Stated there are two revisions. The first modification is that the applicant will agree to restrict the left turn out of the South Avenue driveway from 6 am to 12 pm. Feels it avoids conflicts with the bus. The second modification is to increase the reduction in runoff to 20% for the 100-year storm. They are required to provide 10% so they would go above and beyond.

Phyllis Howard – 5 Burnside Avenue – Stated she has hired a Planner, Barbara Ehlen.

Barbara Ehlen appeared and was sworn in. Her credentials were presented to the Board and she was accepted as an expert in Planning.

Ms. Ehlen reviewed the variances that are being requested by the Applicant. Discussed the permitted uses allow in the Zone. Reviewed what is needed to satisfied a use variance. Stated applicant must show that it is not detrimental to the Public Good and will not substantially impair the intent of the Purpose of the Zone Plan or the Zoning Ordinance. Reviewed the Purposes of Zoning. Discussed suitability of the site and conforming uses. Discussed the signage package needed for this applicant. Reviewed the Medici case; a case seeking to put a hotel in an industrial area. The ORC Zone is a transitional zone meant to buffer the residential uses to the south. Discussed the 2019 Reexamination Report. Stated that the drive-thru is in conflict with the goals and objectives of the Master Plan and the Reexamination Report. This area is a transition to single family homes. Reviewed the bulk variances. Stated the variances must benefit the community and be a better alternative to the property. It is her opinion, the applicant has failed to meet the Medici criteria and failed to prove Special Reasons for the use of the property and does not benefit the community as a whole.

Questions from the Board for this witness ascertain the following:
Township has decided what uses would be permitted for the entry into the community.

Questions from Mr. Paparo to Ms. Ehlen ascertain the following:
She has heard all the testimony from all of the hearings. Her opinion is based on the Master Plan and the Zoning Ordinance. She does not have any witnesses or experts to support her opinion. Coffee shops with drive-thrus are not permitted in the Township.

Mr. Marotta asked if anyone from the Public had questions for this witness the following appeared:

Phyllis Howard – 5 Burnside Avenue – Asked about the property owner doing any marketing of this property.

Ms. Ehlen stated that would be a question for the owner of the property.

Jacqueline Dirmann – Board Engineer appeared was sworn in. Her credentials were presented to the Board.

Ms. Dirmann stated she has reviewed the entire application. Stated Cranford's stormwater code is very restrictive. This application complies with the stormwater ordinance; it reduces impervious coverage and reduces runoff. The applicant is willing to reduce the 100-year storm to 20%. Believes this does comply with the Town's stormwater ordinance. The applicant reduced their footprint after the DRC meeting. All other comments in their letter, the applicant is complying with. Lincoln Avenue is under a moratorium. Applicant will need to request from the Township Committee to open up the road for construction. There is a requirement of paving the road curb to curb.

Mr. Palus stated they can change the sanitary manhole to a lateral connection.

Questions from the Board to Ms. Dirmann ascertained the following:

Lincoln Avenue has a 5-year moratorium. If applicant wants to open up the road the Township Committee has to review and approve it. Town tries not to open up the roads unless it is an emergency. The 20% would let the water out slower and is an improvement versus what is out there now. Not sure how much space is on site for more stormwater. Did approve some other applications with rain gardens in the past, but would defer to the Board.

Mr. Marotta asked if anyone from the Public had questions for Ms. Dirmann, no one appeared.

Greer Patras, Board Planner appeared and was sworn in. Her credentials were presented to the Board.

Ms. Patras stated she has reviewed the application. Discussed her comments about the application. Stated it is up to the Board to weigh the omissions vs the goals of the Master Plan. Reviewed the Planning Report issued October 5th. Site is uniquely configured. Discussed things that cannot be avoided with this application and things that can be avoided. Reviewed the landscaping and signage and possible modifications being made. Discussed the issue about bus shelter and the up and down Dunkin Donuts sign, which she recommends not be internally illuminated. There could be more decorative signage. Recommends signs be lowered to the minimum requirement necessary. Stated applicant has agreed to provide a Welcome to Cranford sign. Discussed the location of utilities and that they have not been finalized, but requesting not to be located on the front of the building.

Mr. Paparo stated the parapet wall is now solid to screen the HVAC. Stated they will work with the Township Planner on areas of the landscaping. Applicant has removed all internally illuminated signs. Feels signage package is as minimal as possible.

Board asked about no left turn and signage.

Mr. Paparo stated that the South Avenue driveway would be restricted with a no left turn between 6 am and noon. Signage would need to be approved by State of New Jersey. It would be a red circle no left turn arrow and hours would be listed. Sign would be located on the property. If County would approve a

sign to be across the street, the applicant has no objection. Fixtures would be more decorative (page 15 on Planning Report). The lights along the perimeter will be the streetscape lighting of the Township.

Ms. Patras stated the signs with restrictions would be exempt from the Township ordinance.

Questions from the Board to Ms. Patras ascertained the following:

Each case merits its own argument. The task lies in the Board's expert opinion of their experience with the town, the site and the street. There is no case law or statute that will be perfectly applicable for this site. Have to weigh the benefits versus the detriments to the community. What changes has the applicant made and can make. A use variance will run with the land. Unique application because the site is unique. Parking for a permitted use could be 3 times the amount of parking spaces that this application requires. Proposed hedge landscaping is 2-feet versus the required 5-feet. Prefers 4-foot hedges. If project moves forward, she would recommend being on site at time or plantings then having an inspection at one year out.

Mr. Marotta asked if anyone has questions for this witness, the following appeared:

Dave Kaplan – 21 Burnside Avenue – Asked about the land usage and a drive-thru intensity. Asked about how property was marketed and about intensive use of the land.

Ms. Patras stated this is what the market is driving and may be a feasible option. Can only weight the application against the merits that the Board has. It is more intense than some of the permitted uses. Has the applicant been able to mitigate where possible.

Rita LaBrutto – 104 Arlington Road – Asked about the d(1) variance and the proofs and the ORC Zone. Asked about intensity of use and about the hedges. Asked about the time restrictions for the left turn.

Ms. Patras stated one of goals of Master Plan is further development in certain corridors. Reviewed page 9 of her report where she included information from the Master Plan. Goal of ORC Zone is to allow low intensity commercial uses and to retain the residential scale and character of the buildings. A doctor's office is one of the highest, intense uses. A d(1) variance is the highest threshold of a use variance that can be requested.

Mr. Verderese answered the question regarding the restriction for the left turn. Stated the restriction would be a timed restriction and there would be a Town ordinance to make it an enforceable offense.

Phyllis Howard – 5 Burnside Avenue – Appeared and was sworn in. Presented 37 slides marked Exhibit O-1 through O-37. Reviewed the slides including photos of the previous Sunoco Station, Clark Dunkin Donuts, Rahway Dunkin Donuts, Cranford Starbucks Drive-Thru, Traffic on 24 Lincoln Ave W., NJ Transit bus stop on South Avenue.

Mr. Rothman stated that Ms. LaBrutto would need to present her photos at the next meeting.

Discussion was held regarding a date for the next meeting.

Consensus was that the next meeting would be scheduled for November 23rd.

PUBLIC PORTION:

Ms. LaBrutto asked when the Zoning Board meetings would back to in-person meetings.

Mr. Marotta stated to conduct a meeting in person there could be 40 to 50 people. The microphone is not able to be sanitized. Does not feel it is the right time to go back to in-person meetings. For the safety of everyone involved, it is not the right time.

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passes. The meeting concluded at 11:14 p.m.

Daniel Aschenbach