

ZONING BOARD MINUTES MARCH 20TH, 2024

The meeting of the Zoning Board of the Borough of Somerville was called to order by Vice Chairman Ed Allatt at 7:00 p.m. and stated that adequate notice of this meeting had been provided in accordance with the “Open Public Meetings Act”.

Board Members Present: Ed Allatt, Morgan McLachlan, Richard O’Neill, Roberta Karpinecz, John Flores, Brian Vadimsky, Eric Alvarez, Stewart Daniels

Board Members Absent: Arthur Adair

Professional Present: F. Clifford Gibbons, Esq., Board Attorney and Michael Cole, Board Planner and Engineer

Pledge of Allegiance to the Flag

Approval Minutes

Upon a motion by Richard O’Neill, seconded by Morgan McLachlan, the minutes of February 21st, 2024, were approved upon a roll call vote with the correction of Mr. McLachlan incorrect title.

Roll Call Aye: Ed Allatt, Morgan McLachlan, Richard O’Neill, Roberta Karpinecz, John Flores, Brian Vadimsky

Nay: None

Abstain: None

See transcript.

Resolutions

23-014Z

Bank of America

10 W High Street

B112 L9.01

Upon a motion by Richard O’Neill, seconded by Morgan McLachlan, resolution 23-014Z Bank of America was approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Morgan McLachlan, Richard O’Neill, Roberta Karpinecz, John Flores, Brian Vadimsky

Nay: None

Abstain: None

See transcript.

Hearing

2024-006Z

Mark Anderson
16 E. Summit Street
B76 L2

Mr. Mark Anderson, homeowner of 16 E Summit Street addressed the board on behalf of himself and his wife to request an extension of time to obtain a building permit for the variance that was previously granted. Mr. Anderson stated that they are proposing the same improvements that were approved previously, that is, replacement of a deteriorated 1980's vintage solar collector at the back of the house with a small addition to living space. Mr. Anderson then focused on what he believed the issue was, the request to an extension of time to obtain a building permit, stating that he did apply for the permit twice within the original granted time frame during COVID and at this time has a licensed architect with completed drawings and would appreciate an extension so that he can have the opportunity to get the plans over to the building department and get the work started. Mr. Anderson stated that he did not think it would take him that long but would appreciate the extension through to the end of the year.

Attorney for the Zoning Board F. Clifford Gibbons, Esq. then provided a recommendation of December 16th, 2024, a one-year extension from the date of the original approval,

Upon a motion by Richard O'Neill, seconded by Morgan McLachlan, the application 2023-006Z 16 E. Summit Street was approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Morgan McLachlan, Richard O'Neill, Roberta Karpinecz, John Flores, Brian Vadimsky, Eric Alvarez

Nay: None

Abstain: None

See transcript.

MISC

Habitat for Humanity
179A Grove Street

Mr. Mark Malinowski, construction manager at Raritan Valley Habitat for Humanity for Humanity was sworn in by Attorney for the Zoning Board F. Clifford Gibbons, Esq. and testified for the project that the application was for a two-bedroom ranch that was expected to house a disabled veteran however the individual that was placed is an able body 34 year old and the sole owner of the home with a 30-year mortgage through Habitat. The request would be to eliminate the sidewalk that was previously approved and to request the allowance of a gravel driveway.

Board Member McLauchlan questioned what they would be voting on which was clarified by Vice Chairman Allat as a vote to amend the previous resolution that included a ramp, paved driveway, and sidewalk down to the street.

Mr. McLauchlan expressed his apprehension to allowing for a gravel driveway as it does pose some complication when it comes to plowing snow etc. Michael Cole, Board Planner and Engineer stated that they had not approved gravel in the past however the ordinance does allow for single-family home to have the option of gravel or blacktop.

At this time additional conversation was had between board members.

F. Clifford Gibbons, Esq., Board Attorney then provided the board with a summation of amendments.

Upon a motion by Richard O'Neill, seconded by Roberta Karpinecz, the application amendment of resolution for Habitat for Humanity, 179A Grove Street was approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Morgan McLachlan, Richard O'Neill, Roberta Karpinecz, Brian Vadimsky

Nay: None

Abstain: John Flores, Eric Alvarez

See transcript.

Hearing

2023-002Z

Manjitt Bajwa

25-27 N. Middaugh

B127 L9

Michael Selvaggi, Esq. attorney for the applicant began his presentation to the board for the application 2023-002Z 25-27 N. Middaugh as a continuation of the public hearing from December 6th, 2023. He refreshed the board memory of the original application that was to take two existing structures on the property and create 13 apartments with related parking. Mr. Selvaggi, Esq. stated that at the conclusion of the last hearing they went through the engineering, architecture and planning testimony and the concerns that were heard were primarily surrounding parking, more so in relation to a garage-type structure that was on the property and why it was not being converted into parking space. He stated that the application heard what the board members and members of the public were expressing and made the decision to make some revisions to the plans. It was made clear that the revisions would be testified to individually by the applicants engineer, architect and planner but that the idea is to take the garage building and make it all available except for a small portion, for parking. Mr. Selvaggi, Esq. also stated that the main building will be converted into two one-bedroom apartments along with some additions to EV charging spots, roof, and windows.

At this time Tyler Vandervalk on behalf of Houser Engineering was sworn in by F. Clifford Gibbons, Esq., Board Attorney and provided professional engineering testimony and highlighted the change made to the plans for the board members and public. Mr. Vandervalk's testimony primarily addressed items such as parking, variance relief, EV charging, site lighting, ADA requirements, units, and configuration. During Mr. Vandervalk's testimony several items were marked as exhibits:

Exhibit A-5 - as a revised preliminary and final site plan. Original date of Jan 5th, 2023, and latest revision dated Feb 8th, 2024

Exhibit A-6 – a vehicle swept path analysis of refuse vehicle dated Mar 20th, 2024

At this time Vice Chairman Allatt opened up to questions from the board of the professional testimony that was just given.

Additional discussion was had surrounding the utility pole and Mr. Cole questioned if the utilities could go underground and eliminate the utility pole. It was agreed that the pole would be removed.

At this time Vice Chairman Allatt opened up to questions from the public of the professional testimony that was just given.

Member of the public Caroline Flamos, 39 West Spring street asked for clarification of the site location and questioned if the site was located in a flood zone. Both questions were responded to by Mr. Vandervalk.

Member of the public Rob Bayait, 43 N Middaugh Street commented that as a member of the public it was very hard to comment on what was being presented because they had not had an opportunity to view the plans and discuss as neighbors prior to the hearing.

Member of the public Leslie Fry, 45 N Middaugh Street commented on the prior flood zone question stating that police arrive on their street any time there is a heavy rainstorm to put barriers because the underpass floods. She then questioned what would happen to the proposed ground level apartments which was responded to by Mr. Vandervalk.

Member of the public Margaret Weinberger, 42 N Middaugh Street addressed the engineer to question how he worked around the federal toxic cleanup site that borders the property as well as asked for clarification on the number of units, and parking spots. Responded to by Mr. Vandervalk.

Member of the public Harold Willard, 44 N Middaugh Street questioned parking spots for visitors and tenants. It was explained that this would be a question for the traffic expert to address.

At this time Michael Selvaggi, Esq. called upon his next witness Mr. Gary Dean, who remained sworn from the prior hearing in December. Mr. Dean provided extensive testimony to the proposed parking and requirements for the project per the RSIS while also responding to members of the public's prior questions. Mr. Dean also addressed variances pertaining to the building coverage and bulk standards including improvement coverage and FAR.

At this time Vice Chairman Allatt opened up to questions from the board of the professional testimony that was just given.

There was some discussion between Mr. Cole and Mr. Dean about the location of the proposed apartments as it related to the variance. Board Member Flores also posed additional questions related to parking to address some of the concerns that the neighborhood has expressed. Board Members Daniels and McLauchlan also questioned changes from the original plan such as tandem parking and the number of dwelling units.

At this time Vice Chairman Allatt opened up to questions from the public of the professional testimony that was just given.

Member of the public Harold Willard, 44 N Middaugh Street questioned if Mr. Dean has been there on weekends and seen the church patrons trying to park and exit before and after services.

Member of the public Jim Von Schilling, 42 N Middaugh Street questioned Mr. Dean's word choice of passive and asked why he chose to use that word. Mr. Dean responded as it relates to the use. They discussed the difference in commercial and residential uses of the site.

At this time Michael Selvaggi, Esq. called upon his next witness Mr. Bill Byrne, who remained sworn from the prior hearing in December. Mr. Bryne testified to the architectural changes that had been made since the prior hearing specifically in respect to the garage parking and the function of the elongated L-shaped building to the north side of the property. Mr. Byrne also discussed façade, garage doors, elevations, the addition of two dwelling units. During Mr. Brynes testimony the following exhibits was marked.

Exhibit A-7 – as sheet 1 of the resubmission including four exterior elevations of the north most building on-site.

Exhibit A-8 – as sheet 2 of the resubmission including a smaller scale view of the entire structure as it exists today, ground level floor plan

Exhibit A-9 – as an enlarged floor plan of both the mal level apartment that is being proposed an the upper level apartment that is being proposed.

Mr. Bryne also addressed several items in the Cole report throughout his testimony.

At this time Vice Chairman Allatt opened up to questions from the board of the professional testimony that was just given.

Board members posed several questions of Mr. Byrnes testimony pertaining to garages, lighting, and the recreation area.

At this time Vice Chairman Allatt opened up to questions from the public of the professional testimony that was just given.

Member of the public Margaret Weinberger, 42 N Middaugh Street asked is the standalone structure was going to be a one- or two-story structure as well as setbacks, responded to by Mr. Byrne.

Member of the public Rob Bayait, 43 N Middaugh Street questioned if the apartments were going to have front doors onto North Middaugh and how far the doorway would be from the parking lot, stating that it would be a 50-foot walk from the parking lot to the front door. This was addressed and responded to by Mr. Byrne.

There was additional conversation between Mr. Byrne and Mr. Cole surrounding the changes to aesthetics, painting, siding, windows, and upgrades proposed to the accessory structure.

At this time Vice Chairman Allatt opened up to the public for any comments they may have.

Member of the public Rob Bayait, 43 N Middaugh Street commented on the Church patrons, stopping, and standing on N Middaugh as well as parking on the street and how he does not feel that sacked parking would work for the apartment complex. He also thanked the board for being through and the hard work they do.

Member of the public Harold Willard, 44 N Middaugh Street commented that he was concerned that they heard from a traffic expert that he was there but did not see all the traffic that there is up and down Camman and Middaugh street. He also expressed his concerns about adequate parking for tenants and visitors.

Member of the public Jim Von Schilling, 42 N Middaugh Street described the neighborhood to those whom may not be familiar expressing that parking is a premium especially when people, come home from work.

At this time Michael Selvaggi, Esq. provided the board with a summation of the application.

Vice Chairman Allatt then asked for a motion to close the public portion. Moved by Mr. O'Neill seconded by Mrs. Karpinecz

At this time Board Members voiced their individual comments on the project and the testimony given that evening. Conversation was had between board members addressing the parking concerns and the addition of two additional units and weather or not that was in the best interest of the surrounding neighborhood.

At this time a brief recess was called.

At this time Michael Selvaggi, Esq stated that the applicant appreciated the call for recess and that the developer was listening and that they would like to take into account some of the comments from the public and eliminate units 1 and 2 from the mail building to accomplish addressing the concerns about stormwater and use the space for utilities, storage, noninhabitable space. This will also address the concern of people parking on the street to get to these units.

At this time F. Clifford Gibbons, Esq. then provided a recap of the conditions of approval.

Upon a motion by Richard O’Neill, seconded by Morgan McLachlan, the application 2023-002Z, 25-27 N. Middaugh was approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Morgan McLachlan, Richard O’Neill, Brian Vadimsky John Flores, Eric Alvarez, Stewart Daniels

Nay: None

Abstain: None

See transcript.

Hearing

2023-018Z

90 Grove Street, LLC

90 Grove Street

B71 L13

The attorney for the applicant, Mr. Michael Silbert, Esq. addressed the board presenting the continuation of the application 90 Grove Street, LLC from the February 21st, 2024 meeting. MR. Silbert recapped that the site was located in the PO-R zone and is proposing to renovate the upper one and half floors of a three-story building. The application seeks to shift the buildings use from an office space on the ground floor and second floor along with a single one-bedroom apartment unit on the second floor to a configuration that induces office space only on the ground floor and two apartment units on the upper two floors the building, requiring D-1 variance relief.

At this time Mr. Silbert, Esq. recalled to the board that they had completed the testimony of their engineer Craig Stires and that the would be recalling Mr. Primiano to address modification made to the architectural drawings and then conclude the application with the planning testimony of Mr. Alezander McClean.

Under direct examination by Mr. Silbert, Mr. Primiano whom remained sworn in from the prior hearing testified to the previous concerns hear at the prior hearing regarding the smaller bedrooms on the upper floor, the attic floor and the lack of a bathroom. Mr. Primiano also discussed the installation of a sprinkler system.

At this time Vice Chairman Allatt opened up to questions from the board of the professional testimony that was just given.

Hearing none, Vice Chairman Allatt then opened up to questions from the public of the professional testimony that was just given.

At this time Mr. Silbert called upon his next witness Mr. Alexander McClean who was then sworn in by F. Clifford Gibbons, Esq. Under direct examination by Mr. Silbert Esq. Mr. McClean provided professional planning testimony addressing the D1 and D4 variance that is being sought by the applicant along with additional testimony explain how the application advances multiple purposes of the MLUL including purpose A, C, E, G, I, and M as well as identified the positive and negative criteria.

During the course of Mr. McClean's testimony, the following exhibit was marked:

Exhibit A-1 – as a collection of including zoning and parcel prepared by Mr. McClean

At this time Vice Chairman Allatt opened up to questions from the board of the professional testimony that was just given.

Hearing none, Vice Chairman Allatt then opened up to questions from the public of the professional testimony that was just given.

At this time Mr. Silber, Esq provided a brief conclusion to the board of the testimony given.

Vice Chairman Allatt then asked for a motion to close the public portion. Moved by Mr. O'Neill seconded by Mr. McLachlan

At this time Board Members voiced their individual comments on the project and the testimony given that evening.

F. Clifford Gibbons, Esq. then provided a recap of the conditions of approval.

Upon a motion by Richard O'Neill, seconded by Morgan McLachlan, the application 2023-018Z 90 Grove Street, LLC was approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Roberta Karpinecz, Morgan McLachlan, Richard O'Neill, Brian Vadimsky, Eric Alvarez, Stewart Daniels

Nay: None

Abstain: None

See transcript.

Public Comment

Caroline Flamos, 37 West Spring Street had general questions and comments for the board pertaining to the gun store that is opening up on Gaston Ave. She expressed that there was a court case that resulted in the Judge directing that they exhaust all of their administrative remedies and considers that the decision made by the zoning officer to be an adjudication and an appeal should come before the zoning board.

Vice Chairman Allat advised that none of the board members would be able to comment on what was being presented based on the possibility of it being brought before them in the future and secondly because it would have to be not allowed in the zone.

Additional conversation was had regarding the appeal process and recommendations between Mr. Flamos and Attorney for the Board F Clifford Gibbons, Esq.

Adjourn

Upon a motion by Richard O'Neill, seconded by Morgan McLachlan, the adjournment of the planning board meeting of March 20th, 2024, was unanimously approved upon a roll call vote.

Roll Call Aye: Ed Allatt, Roberta Karpinecz, Morgan McLachlan, Richard O'Neill, Brian Vadimsky, John Flores, Eric Alvarez, Stewart Daniels

Nay: None

Abstain: None

The zoning board meeting of March 20th, 2024 was adjourned at 10:41p.m.