

## **ZONING BOARD MINUTES MAY 17<sup>TH</sup>, 2023**

The meeting of the Zoning Board of the Borough of Somerville was called to order by Chair Arthur Adair 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: Arthur Adair, Roberta Karpinecz, Morgan McLachlan, Brian Vadimsky, Richard O’Neill, Ed Allatt, John Flores, Eric Alvarez

Board Members Absent:

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

### **APPROVAL OF MINUTES**

Upon a motion by Richard O’Neill, seconded by Roberta Karpinecz, the regular and executive minutes of April 19<sup>th</sup>, were approved upon a roll call vote.

Roll Call      Aye:    Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Richard O’Neill, Ed Allatt, John Flores, Eric Alvarez

Nay:    None

Abstain: Morgan McLachlan

### **RESOLUTION**

**22-006Z**

**Black Diamond Realty, LLC**

**195 West High Street**

Upon a motion by Richard O’Neill, seconded by Roberta Karpinecz, the resolution for application # 22-006Z, was approved upon a roll call vote.

Roll Call      Aye:    Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Richard O’Neill, Ed Allatt, John Flores, Eric Alvarez

Nay:    None

Abstain: Morgan McLachlan

**22-016Z**  
**Harshit Patel**  
**151-159 Adamsville Road**

Upon a motion by Richard O’Neill, seconded by Ed Allatt, the resolution for application # 22-016Z, was approved upon a roll call vote.

Roll Call      Aye:    Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Richard O’Neill, Ed  
                        Allatt, John Flores, Eric Alvarez  
  
                    Nay:    None  
  
                    Abstain: Morgan McLachlan

**Recommendation that Borough Council amend chapter 102-104 of the borough code, “Land Use and Development” to revise the requirements applicable to the “PO-R” Professional Office – Residential Zone District to permit two (2) family residences in the professional office-residential zone district.**

Upon a motion by Richard O’Neill, seconded by Ed Allatt, the recommendation to amend chapter 102-104 of the borough code, was approved upon a roll call vote.

Roll Call      Aye:    Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Richard O’Neill, Ed  
                        Allatt, John Flores, Eric Alvarez  
  
                    Nay:    None  
  
                    Abstain: Morgan McLachlan

**Recommendation that borough retain certified zoning officer on a temporary basis until acting zoning officer receives certification from state of New Jersey.**

Upon a motion by Roberta Karpinecz, seconded by Richard O’Neill, the recommendation to retain a certified zoning officer on a temporary basis, was approved upon a roll call vote.

Roll Call      Aye:    Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Ed Allatt, John Flores,  
                        Eric Alvarez  
  
                    Nay:    None  
  
                    Abstain: Morgan McLachlan

## **LAND USE**

**22-022Z**

**1 L Somerville Land Holdings, LLC**

**1 US Route 206 & Bridge Street**

**B123 L11.01**

Tiena M. Cofoni, Esq. attorney for the applicant 1L Somerville Land Holdings, LLC explained that she would be presenting the application this evening along with Jack Larkin, council for Catalyst Experiential. Cofoni confirmed with board attorney Clifford Gibbons, Esq that the notice of hearing was published and mailed to everyone on the 200 FT List in accordance with the MLUL and Somerville requirements allowing the board to have jurisdiction to hear the application. Signed affidavit was provided to the Board Secretary and confirmed.

Tiena M. Cofoni, Esq. attorney for the applicant 1L Somerville Land Holdings, LLC reviewed property location and identified existing use before providing the board with applicants request to seek preliminary and final site plan approval with variances to construct a monument display sign to be constructed in the front yard of the property. Cofoni also explained that the applicant has entered into a lease agreement with the property owner, permitting the construction operation, and maintenance of the sign. A sign that was designed through a collaboration with Borough officials with safety and security features to provide an attractive monument with architectural nodes to the borough's historical train station while also providing the borough with valuable advertising space on the sign itself.

Cofoni then presented the four witnesses that would be testifying before the board this evening:

Tia Steinhardt – VP of development for Catalyst Experiential (affiliate of the applicant)

Todd Hay – Engineer with Pennoni

Matthew Seckler – Traffic Engineer with Stonefield

Golda Speyer – Professional Planner with Topology

Tia Steinhardt was sworn in by Clifford Gibbons, Esq., Board Attorney and gave background on her role at Catalyst Experiential including years of service, titled position, and nature of her employment. Steinhardt presentation consisted of an overview of the company, product portfolio, functionality of designs, overall community benefit associated with projects, and the specific location and custom designed that have been created for the proposed project.

Steinhart also used video materials to allow the board a visual look at the proposed project while also providing images of previously projects that have been implemented into municipalities across the Northeast. PowerPoint with Video Submission was noted as exhibit A-1 into the record.

Steinhart went on to explain the advanced technology of the monument called light blocking surface mount diodes or light blocking SMD and how this technology would affect the surrounding area and inhabitants. The technology along and custom angled louvers on each of

the display faces Catalyst is able to focus the content specifically to the roadway which it is intended to be viewed. Ambient light and the use of a device called a multidirectional light sensor or MDLS that constantly monitors ambient light was described to address display brightness.

Steinhardt also addressed that the installations strictly abide by NJDOT state regulation by displaying only static images for 8 second intervals – no flashing, no movement, no animation. It was also explained that the municipality will be guaranteed an 8 second slot every 2 min for the length of the installation operational hours, at no cost – equating to 510 municipal messages displayed each day on each side of the installation. The installation would also be accessible for municipal communications, emergency communication and nonprofit communications.

An operation and maintenance agreement that the municipality would enter was also discussed. This agreement outlines standards for general operations, municipal communications, and maintenance amount other features including a list of prohibited advertisers dictated by the municipality.

The location selection process was also explained by Steinhardt including the proximity to the Borough's geographical boarder, service as communication platform to reach motorists prior to entering the historic district, and lastly was since the majority of advertisers were from local and regional businesses.

Lastly the monument design, construction, and materials were displayed, and the intentional thought process was reviewed by Steinhardt including the ornamental fence to deter wildlife and any potential inhabitants.

Upon conclusion of the presentation Chairman Adair open up questions to the board - several board members posed questions to Steinhardt including dual projection, municipality use and advertisement space as well as what the sign looks like when it is not being projected on.

Chairman Adair opened up to questions from the audience.

Audience member Milton Peabody of 25 Reimer questions the height and the area of the structure - Steinhardt provided the measurements– total height of 41ft and 681 sq ft for the digital.

Tiena M. Cofoni, Esq. attorney for the applicant then called Jack Larkin, Esq. general counsel for Catalyst Experiential to come before the board to review engineer Todd Hay's testimony.

Todd Hay was sworn in by Clifford Gibbons, Esq., Board Attorney. Under direct examination by Jack Larkin, Todd Hay provided professional background, employment status, and industry experience. Once accepted by the board Hay provided background on the project and subject property including lot location and shape, frontage as well as reviewed in depth the 7 variances on the plan consisting of 3 D variances and 4 C variances.

After the in-depth analysis of the variances by Hay – Chairman Adair opened up questions to the board members. Questions from the board members included how far from the curb line the monument would be as well as whether there was a space for CPUs or computer to run the sign.

Both questions were responded to in detail. Two comments were made by Michael Cole, Board Planner and Engineer in regard to the height of the structure and number of trees on the property.

Board Attorney Clifford Gibbons, Esq. posed the question of what measures were being taken to deter pests, vermin as well as what security measures were being taken in the event of the monument becoming a place for unhouses individuals to flock. Steinhart responded to these questions and gave information on recording security cameras for general security purposes. The board expressed concerns that the measures currently being proposed may not be adequate and made suggestions on enhancing.

Chairman Adair opened questions up to the audience.

Milton Peabody, 25 Reimer commented that the borough has a significant flooding event up to 54 feet and advised that the DCU's be placed high up to ensure they would not be affected by potential flood waters.

Jack Larkin, Esq. general counsel for Catalyst Experiential then called for Matt Seckler Traffic Engineer with Stonefield.

Matt Seckler was sworn in by Clifford Gibbons, Esq., Board Attorney. Under direct examination by Jack Larkin, Matt Seckler provided professional background, employment status, and industry experience. Once accepted by the board Seckler provided an analysis of a macro and micro look at the federal and general guidelines for advertising displays to understand the impact on traffic both pre and post construction as well as the site-specific traffic characteristics. The conclusion Seckler explained that he reached was essentially where there was billboard present, they were not looked at any more or substantially any more than when there were not billboards present, and that overall drivers attention did not change whether there was an advertisement or not. Seckler went on to say that essentially, the billboard in the study did not affect driver safety.

Seckler also provided information from several sources sitting crash rate reports and regulations for specific roadways for federal regulations but also cited RT 206 as it specifically relates to the location of the monument.

Chairman Adair opened up to the board for questions.

Chairman Adair opened up to the audience for questions.

Tiena M. Cofoni, Esq., attorney for the applicant then called for Golda Speyer, Professional Planner with Topology. Golda Speyer was sworn in by Clifford Gibbons, Esq., Board Attorney. Under direct examination by Tiena M. Cofoni, Esq. Golda Speyer provided professional background, employment status, and industry experience. Once accepted by the board Speyer provided a presentation including site sustainability, required use variances, how the proposed project aligns with Somerville's Master Plan, accessory permitted uses, as well as the positive and negative criteria of the Medici Standards. Speyer stated that after thorough analysis of the site, ordinance, and master plan, that the site is particularly suited for the use and consistent with the master plan meeting both positive and negative criteria for all variances and that there will be no substantial impact in her professional opinion.

Tiena M. Cofoni, Esq., attorney for the applicant then provided application summary to the board.

Chairman Adair opened up to the board for questions.

Chairman Adair opened up to the audience for questions.

The public portion of this application was then closed.

The Zoning Board discussed the application in detail ranging from design decisions and overall aesthetic to location and overall necessity and classification of a monument or billboard, how it ties into the Borough and Master Plan.

Attorney for the Board Clifford Gibbons, Esq. addressed the board members suggesting that they give the applicant a moment to caucus to discuss the legitimate through the board has with concerns to the application and suggested a 5-minute break.

Chairman Adair called for a 5-minute recess.

Upon returning from the recess Steinhardt thanked the board for their feedback and understanding and requested that the application be carried over to the following meeting so that they can have time to make some modifications based on the aesthetic concerns that the board had raised to create a different design option.

Upon a motion by Richard O'Neill, seconded by Ed Allatt, request to carry over Zoning Board application 22-022Z 1 L Somerville Land Holdings, LLC to Zoning Board Meeting on June 21<sup>st</sup>, 2023, was approved upon a roll call vote.

Roll Call:     Aye:   Arthur Adair, Roberta Karpinecz, Brian Vadimsky, Richard O'Neill, Ed Allatt, John Flores, Eric Alvarez  
                    Nay:   None

See transcript.

**23-003Z**  
**Richard and Sarah Malcolm**  
**131 Eastern Ave**  
**B43 L20**

David J Singer, Esq attorney for the applicant Richard and Sarah Marshall 131 Eastern Ave explained that they were before the board this evening for a site plan exempt application seeking variance approvals to rebuild the prior home that was destroyed by Fire. Singer also went on to explain the importance and sentimental value of the home to the owner appearing before them this evening. As part of the application the applicant is seeking approval for relief from minimum lot area, minimum lot width, minimum lot frontage, maximum improvement coverage, minimum floor area ration, minimum front yard setback, side yard setback, driveway width, size

and location of garage. Noting that the property will look the same as it did before the fire in terms of size and location. David J Singer, Esq explained that the board will hear testimony on behalf of the application by planner and engineer Joe Vince and architect Ralph Finelli, explain the reconstruction and why the variance meet the requirements of the Somerville ordinance and MULLU and should be granted and that granting the application would allow the applicant to proceed with the demolition and reconstruction of the property as soon as possible. At that time David J Singer, Esq called upon first witness Ralph Finelli, Architect.

Ralph Finelli was sworn in by Clifford Gibbons, Esq., Board Attorney and provided his professional background, employment status, and industry experience. Once accepted by the board Finelli reviewed architectural drawing submission with the board explain the that the rebuild is exact footprint of the existing foundation and that it was their intention to save what is existing as the foundation but will not be able to assess how suitable the foundation is until the frame has been pulled off. Finelli also explained that there would be a couple of improvements made to the building including modifications to the front elevation, square footage changes, as well as putting a gable roof- a visual change. Finelli also reviewed comments in the M Cole report that was provided to the applicant including windows, attic, basement, decking materials and rain gutters.

Chairman Adair opened up to the board for questions.

Two Questions were asked by board member McLachlan first of which was the basement height and second was if the garage was damaged by the fire, both of which were answered by Finelli. Board member Allatt questioned the additional sq ft on the rear of the house, answered by Finelli. Michael Cole, Board Planner and Engineer clarified that they are changing the roof from hip to a gable while keeping the same pitch, confirmed by Finelli.

Chairman Adair opened up to the audience for questions.

Unidentified member of the audience questioned if the foundation was buildable and if it would be able to sustain a house or not. Finelli reiterated that the foundation visually appears to be in suitable condition, however they will not know for sure until the frame has been removed. Michael Cole, Board Planner and Engineer explained that it was his understanding by the building code was that a design professional would have to certify that the foundation is suitable.

Jennifer Bruder, 133 Eastern Ave next door neighbor of the property questioned how the foundation will be reinforced if it is indeed not suitable for a foundation. Finelli referred back to his testimony stating that various ways they could reinforce. Bruner questioned how this would affect the standing structures on either side to which Finelli responded that it would not have any effect at all. Bruder expressed how she could not understand how that is possible, Finelli responded that it was a construction project no different than any other and it will not have any effect on her property's foundation, windows, framing etc. Board member Allatt confirmed that the code as it is now will address all the concerns and that there shouldn't be any effect on the neighbors during or post construction.

Milton Peabody – 25 Reimer stated that he lived behind the house and posed the question of how the gutters will be stipulated and where they will drain – Finelli stated that the engineer would discuss this directly however they would drain where they are currently draining.

David J Singer, Esq. called upon his next witness Joseph Vince, Engineer and Planner

Joseph Vince was sworn in by Clifford Gibbons, Esq., Board Attorney and provided his professional background, employment status, and industry experience. Once accepted by the board Vince under direct examination by David J Singer, Esq testified to the outstanding engineering items including, rain gutters, storm drain system, discharge and downspouts as well as no increase to impervious areas and no change to grading on the site. Vince also spoke to the utility on the westerly side of the property, sidewalk conditions, and existing sanitary sewer. Vince addressed the variances as well stating that the lot was created by subdivision and is an undersized lot causing most of the variances to be necessary and went on to explain each variance request. Vince stated that the Master Plan discusses preserving existing neighborhoods therefore rebuilding the house that burnt down in a fashion that is consistent with the other houses is consistent with the Master Plan. For all reasons stated Vince stated that he feels the variances can be granted.

Michael Cole, Board Planner and Engineer discussed the drainage stating that because they are not on the site plan and hot spot grades he wont know how the stormwater runoff occurs however it is the policy to get the stormwater to the street to the extent possible.

Chairman Adair opened up to the board for questions.

Board member McLachlan questions the timeframe for the project should the application be approved. David J Singer, Esq. responded that this would happen fairly quickly and that they were already in discussion with the insurance company and that the builder was present at the meeting and ready to begin work.

Jennifer Bruder, 133 Eastern Ave - stated that she has not yet heard a timeline rather she heard an eloquent walk around and would appreciate being given a solid timeline as a neighbor to the property and concerned mother who has had to live with the remnants of the fire that took place next door, explaining that it has been a traumatic experience and would like to see more urgency towards the demolition of the existing structure and progress made towards rebuilding and asked the board to please push harder to get a clear commitment from the builder sand attorney present for clearer timelines.

Brianna Loffa, 127 Eastern Ave provided commentary that as the direct neighbor would like to have a clearer timeline as well and would like to be kept informed as there are people walking on their property while providing work to the site taking pictures etc. without identifying themselves.

Board member Allatt explained that there is a permitting process through the town that the applicant is going to have to go through to get the demo permit and that the zoning board of adjustment cannot control that process. Attorney for the board Clifford Gibbons continued that



the board cannot put a timeline to a project however the board can indicate that they encourage and does not object to the applicant immediately seeing a demolition permit and can advise the municipal staff as to that, however this would be done at significant risk of the applicant.

Board member McLachlan asked if the owners were present this evening which was confirmed by attorney for the applicant David J Singer, Esq. McLachlan addressed the owner stating that with the understanding that this was at their own risk they are hearing a resounding yes to please proceed with demolition. Ms. Malcolm, owner of 131 Eastern Ave stated that she would like to proceed with this as quickly as possible for the sake of everyone involved.

Chairman Adair asked is there were any additional comments and public session was closed.

Application was discussed by the Zoning Board of Adjustment with items such as demolition, rodents extermination, cutting of utilities.

Upon a motion by Morgan McLachlan, seconded by Roberta Karpinecz, Zoning Board application #23-003Z 131 Eastern Ave B43 L20, was approved upon a roll call vote.

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

                  Nay:   None

See transcript.

## **AJOURN**

The meeting was adjourned at 10:43 p.m.