

Borough of West Paterson

Board of Adjustment



Passaic County, NJ

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BOARD OF ADJUSTMENT MINUTES

June 28, 2010

MEETING CALLED TO ORDER AT 7:35 P.M. by Chairman Holloway.

OPEN PUBLIC MEETING LAW: THIS MEETING IS CALLED TO ORDER PURSUANT TO THE NEW JERSEY OPEN PUBLIC MEETING LAW, AND AS STATED IN NOTICES OF THE TIME, PLACE AND DATE PUBLICIZED IN ACCORDANCE WITH THE STATUTE. IT WAS INCLUDED IN A LIST OF MEETINGS FORWARDED TO THE HERALD NEWS AND THE RECORD AS REQUIRED NOTICES. IN ADDITION, THIS LIST HAS BEEN POSTED IN A PUBLIC PLACE BY THE BOROUGH CLERK, AND A COPY OF THIS HAS BEEN FILED IN HIS OFFICE FOR PUBLIC INSPECTION. PROPER NOTICE HAVING BEEN GIVEN, THIS MEETING IS CALLED TO ORDER AND THE CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THE MEETING.

MEMBERS IN ATTENDANCE: JIM IANNIELLO, RUSSEL JUZDAN, GIANNI INTILI, PHILIP DICRISTINA, GARY HOLLOWAY AND VINNIE DECESARE

ALSO PRESENT – JOHN FIORELLO, BOARD ATTORNEY

FLAG SALUTE

A motion to approve the minutes of the May 24, 2010 meeting was made by Mr. DeCesare, second by Mr. Intili and approved.

RESOLUTIONS

DOCKET # 10-01 – E. SCHUMACHER – 1231 MCBRIDE AVE. – BLOCK 96 LOT 13 – USE VARIANCE/PRELIMINARY & FINAL SITE PLAN – Application is hereby approved with conditions by a vote of 6 – 1.

ORDER OF BUSINESS

DOCKET # 10-03 – QUICK CHEK, CORP. – BROWERTOWN RD. – BLOCK 122 LOTS 10 & 10.02 – PRELIMINARY & FINAL SITE PLAN – USE & BULK VARIANCES – **NOTICE DEFICIENT WILL SATISFY NOTICE REQUIREMENT FOR JULY 26, 2010 MEETING**

DOCKET # 10-05 – A. FREEMAN – 57 QUARRY DR. – BLOCK 113 LOT 12.01 – BULK VARIANCE

Mr. Jerry Friend, attorney for applicant. Arlene Freeman, applicant, was sworn in. Mr. Friend stated the application was for construction of a bathroom in the basement of the home owned by Mrs. Freeman. It is a unique situation because the dwelling unit is located at Four

Seasons at Great Notch and it is what is called a courtyard home where there are 8 units attached. The reason they are here is there is what is called a walk-out basement in the unit and because it has access to the outside from the basement a variance is required. If they did not have the sliding glass doors going outside the variance would not be required in order to put a bathroom in the basement. Four Seasons at Great Notch is a 55 year and over community which you cannot gain access to except for the 3 gated entrances. If you are an owner you must have a permit for parking that is given to them by the community. A visitor receives something to hang on the mirror to indicate you are a visitor. He is assuming the reason for not allowing basement bathrooms with outside access would be concern about rentals. There is no way Mrs. Freeman could rent out the basement as an additional unit because there is no way to gain access into the apartment except through her front door. The building is on a mountain and there is no sidewalk around the building. The only way a sliding door can be opened is from the inside of the unit. Mrs. Freeman also needed approval from the community and they have granted approval.

Mrs. Freeman is asking to install the bathroom because she has an elderly mother who comes up from Florida periodically to visit. It is inconvenient for her and Mrs. Freeman's grandson to come up from the family room to use the bathroom.

Mr. Friend submitted photos of the outside area of the building. The photos were marked A-1 to A-7. Mrs. Freeman stated she took the photos and described each photo.

Mr. Friend said you cannot get more than two parking permits for units such as Mrs. Freeman owns. He stated that some of the Board members tried to come and look at the site and one of them did not get in to the community. Another member did look at the site and the unit.

Mr. Friend felt the variance could be approved with no negative impact on the zoning ordinance and the granting of the variance will not impair the intent of the ordinance.

Mr. Juzdan asked if she was given the option to have a bathroom in the basement when she purchased the unit. Mrs. Freeman said Hovnanian put no bathrooms in the basements but there are people who do have them because they do not have a walk-out basement unit and they were granted permits.

Mr. Intili thought it was pretty clear and asked if the variance was granted if she would get all required permits. Mrs. Freeman said she would.

PUBLIC OPEN – CLOSED

Mr. Ianniello asked how many bathrooms she had now. Mrs. Freeman said two full bathrooms. Mr. Ianniello asked if her mother would be living with her permanently or just occasionally visiting. Mrs. Freeman said her mother is 94 years old and will probably live with her at this point. Mr. Ianniello said it was him who left because it was Sunday and he did not want to bother her. He asked if she would have a bedroom in the basement for her mother. Mrs. Freeman said yes. Mr. Ianniello said she would still have to come up and

down the stairs to eat. Mrs. Freeman said she might however when she sleeps she can't and it is difficult for her to get down there. She also has an additional grandchild and she can't leave him. She said she will comply with every rule and regulation the town has and she is asking for an approval to do this because it is a hardship for her at this point. She feels terrible that her mother can't come up and down the stairs.

Chairman Holloway asked if she has gone to the condo association and asked if she could close up the sliding doors. Mrs. Freeman said they would not allow anything. You have to ask permission even to plant a flower and they are very strict with the rules and check on everything. Mr. Ianniello said these are things that she knew before purchasing the unit.

Mr. Intili asked if her mother was going to live in the basement. Mrs. Freeman said yes. Mr. Intili asked if the only thing she is going to need would be a full bathroom. Mrs. Freeman said she would like that. There would only be a shower because her mother can't go into a tub. Mr. Intili asked if her mother would need a kitchen or a kitchenette. Mrs. Freeman said kitchens are not permitted. The association has approved this project which does not include any type of cooking facilities. The food would be brought down to her mother or she would sometimes come upstairs to eat. Mr. Intili asked about plans. Mrs. Freeman said it was just a squared off area where she would put in a bathroom.

Mr. DeCesare said he was in the unit today. He asked Mr. Fiorello for clarification on what a hardship is for. Mr. Fiorello said under the MLUL a hardship must be related to the property and not a personal hardship. Mr. DeCesare asked if this variance was granted if all others would have to be automatically granted. Mr. Fiorello said you don't but if someone comes and said another family member was going to live with them what do you do. Mr. DeCesare said he wanted to be clear. Mr. Friend said he wanted the Board to understand that this particular piece of property does have a hardship because of the way it was constructed by the developer.

Mr. Holloway asked if they would have to walk the whole perimeter of the building to gain access to the basement. Mrs. Freeman said you would have to. There is a big catch basin on one side, a street on the other side and then Route 46.

Mr. DeCesare said you can get to the basement from the garage also. Mr. Dicristina asked if the units with bathrooms could access the basement through the garage. Mrs. Freeman said you would have to come through the house.

Mr. Intili said the ordinance reads the full/partial bathroom shall be permitted provided the only access is through the dwelling unit. This is the case because you still have to go through the unit to get to the sliding glass doors so it does not matter. Mr. Holloway said the intent of the ordinance was probably to eliminate illegal basement apartments throughout the Borough. Mr. Intili said there is no door a potential tenant can open up and felt the conditions there supports the applicant's request. Mr. Dicristina said the association polices itself and in the future when the unit belonged to someone else they couldn't do it either. He felt this was a different circumstance.

Mr. Friend felt they have explained it to the Board and felt the Board gets the picture.

A motion to approve was made by Mr. Intili, second by Mr. Juzdan and approved by a vote of 5 – 1.

Mr. Fiorello asked the Board to give him some language to put in the resolution. Mr. Intili felt there should be no conditions. Mr. Fiorello asked what the hardship was with the property in order to approve. Mr. Holloway asked if the Board had any thoughts on reasons. Mr. Fiorello said if the mother moves away or passes away they just created a two-family dwelling. Mr. Intili felt the association would not allow that. Mr. Fiorello said it is not the Board's problem because they don't represent the association they represent the Borough of Woodland Park. He asked the Board to tell him the language they want in the resolution because he does not know the hardship. The applicant bought the property knowing what she bought. It is the Board's job to tell him the reasons because he did not hear any reasons for granting the variance.

DOCKET # 10-07 – CLIFTON SAVINGS BANK – 1530 ROUTE 46 WEST – BLOCK 122 LOT 11 & 12 – SIGN VARIANCE

David Altman, attorney for applicant, stated they are here on an application for a sign variance. He has two witness, Mr. Frank Mileto, architect/planner, and Mr. Michael Placko from the sign company.

Frank Mileto, architect/planner, was previously qualified by the Board and was sworn in. Mr. Mileto said the bank has entered into a lease agreement with the shopping center at 1530 Route 46 West. There was a bank in the space previously that has now moved across the street. The building is setback from Route 46 hundreds of feet. The signage varies throughout the shopping center and is based on the frontage of the stores. The requirements are reasonable if you have a 50' setback but when you are viewing a sign that far from the highway you obviously can't put up a small sign. Most of the stores in the center have received sign variances. He felt there is a hardship because the property is too big and too far back from the view of the public. You can not change that so they need to put up a large enough sign to be seen. He described the stores and the signs next to the space. A photo of the signs in the area was marked A-1.

Mr. Mileto said the visibility is difficult for traffic going by and they do need to be identified which is a very important part of their business. The other criteria is the C-2 variance which is the balancing of whether the granting of this variance for a larger sign would be detrimental in any way for the surrounding properties or the borough. He believes the benefit is that this is a viable business and will lead to a safer location of the bank because people would identify it quicker. Keeping businesses viable and stores full is a benefit to the community. This is a solid tenant who will be there for years. He felt the variance could be granted because it is a unique situation. The dimension of the signs is 70" and the width is about 21'. It doesn't in his opinion create an obtrusive sign and it will not flash or blink.

Mr. Intili said he made a good point as far as visibility from the highway but asked how you read a sign when you are traveling 55 MPH. He thought they should supply something that would substantiate that. Mr. Mileto said you really don't have to read the whole sign because you would know the bank by its logo. It is an identification sign of the business just like the liquor and dental signs. Mr. Altman said to imagine how much more of a hazard would exist if the letters were much smaller. Mr. Ianniello said if you take the time to look into the shopping center you may have an accident so you should be careful. He felt they should concentrate on the sign and did not think visibility was material here.

Mr. Intili asked how many bays the bank would occupy. He asked if the dental office was one bay. Mr. Mileto said they are all one bay. Chairman Holloway felt Imperial 46 was two bays. Mr. Ianniello agreed it was a double store. Mr. Intili asked if the bank sign was higher than the liquor sign and the dental sign. Mr. Intili said he would wait for the answer from the sign company representative.

Mr. Juzdan asked if they tried to put it on one line that was 36" high. Mr. Mileto said they tried several ways to make it comply. It was important to the bank to have the logo and the signage up there. It is important because banks are very competitive these days. Complying with the ordinance would put the sign out of scale from the other signs in the center.

PUBLIC OPEN FOR QUESTIONS TO MR. MILETO

Richard Bernstein stated he had a comment regarding the sign. Chairman Holloway said they would open to the public for comments after all witnesses are heard.

PUBLIC CLOSED

Michael Placko, owner of Sign-A-Rama, was sworn in. Mr. Placko stated he took the photo marked A-1. He felt this size sign fits well in the shopping center. The top of the bank logo will be on the same line as the liquor store. The sign will be lit with LED lighting.

Chairman Holloway asked Mr. Placko if he knew how big the sign was for the Chinese restaurant. He thought it was well into 40' wide with 4' to 5' tall letters. It is much larger than this proposed sign. Mr. Ianniello said that sign was put up illegally and then they came to the Board for a variance. Chairman Holloway said he was asking as a reference because that is a two store sign.

Mr. Intili asked if they were individually mounted illuminated letters. Mr. Placko said they are mounted on a raceway. Mr. Intili asked if the raceway comes across. Mr. Placko said the raceway would run the length of the letters and they do that to hold the wires. Mr. Intili asked why they were not showing it on the elevation. Mr. Placko said they paint it the same color as the building so in a photo you would not see it. The letters will be 6" deep and the raceway will be 6" deep as well. The dental sign is the same way with the raceway. Mr. Intili asked if the design was the bank logo. Mr. Placko said it was and the letters and logo are the same size with 15" between lines.

PUBLIC OPEN

Richard Bernstein, 16 Wedgewood Dr, was sworn in. He does not believe a larger sign is necessary for the bank to attract potential customers. If you go into the mall there is a large sign at the entrances on Route 46 and Browertown Rd. identifying all the businesses. He believes the zoning laws are created to protect the community. The nature of a sign is to advertise and believed customers would know about the bank through other advertising. He did not believe the bank's success would be determined by the sign. He is a member of the Planning Board and noted that they have requested proposed signs be reduced which they have done.

CLOSED

A motion to approve was made by Mr. Ianniello, second by Mr. Dicristina and denied by a vote of 3 -3.

Chairman Holloway stated the Quick Chek Corp. will be coming before the Board and he asked the members if a special meeting should be suggested. There are several other applicants waiting to come before the Board. Mr. Intili said it is now 8:30 p.m. and felt they should be here. The Board Secretary noted that the notice was deficient and they could not be heard this evening.

Chairman Holloway felt it was a large application which would take some time. The Board will consider some meeting dates and ask the applicant if they would consider a special meeting at the next meeting.

Chairman Holloway said it is not official yet but it is his understanding that Mr. Kiss has resigned from the Board and he will be forwarding a resignation letter.

Mr. Intili noted that Mr. Fiorello has a new firm and congratulated him

A motion to adjourn was made by Mr. Ianniello, second by Mr. Dicristina. All in favor. Meeting adjourned.