

BOROUGH OF RIVER EDGE
LAND USE BOARD
COUNCIL CHAMBERS
WEDNESDAY, APRIL 4, 2018

MEMBERS PRESENT:

James Arakelian, Chairman
Lou Grasso
Mayor Edward Mignone
Ryan Givens – Sworn in
George Sederias – Sworn in
Chris Caslin
Dr. Jeffrey Gerwartz

MEMBERS ABSENT:

Dario Chinigo
Richard Mehrman

ALSO PRESENT:

Tom Burns, Planner
Robert Costa, Engineer
Mark Skerbetz, Zoning Officer

Minutes Prepared by
Dorothy Bernice

BOROUGH OF RIVER EDGE
PLANNING BOARD
COUNCIL CHAMBERS
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Prior to the flag salute the Board President James Arakelian asked for a moment of silence for former board member Vito Acquafredda. He acknowledged his contributions to the board and the town and said he will be sorely missed.

Mayor Mignone swore in the two new board members: Ryan Gibbons and George Sederias while members of their families were in attendance.

COMPLETENESS REVIEW

John Munisiski, Architect -- The variance application is for a 5 foot front yard variance setback. Mayor Mignone moved the application complete and Dr. Gerwitz seconded the motion to approve the completeness and it was confirmed by a unanimous vote of the board.

MCG Realty was the next application viewed for completeness. It was pointed out that this application could not be heard unless the applicant was able to provide written consent in perpetuity for the additional parking that was provided by the neighbor's permission to allow parking. The Mayor noted that this might include a deed restriction on the neighboring property. The applicant said he had a consent letter but it did not include all the spaces and he was trying to get in touch with the neighbor but he was in Florida. The Board Attorney said she had no letter in the file so a letter was provided for her. The Chairman said that the board would proceed but this deed restriction would be a condition of approval. Mayor Mignone moved for completeness and Dr. Gerwitz seconded the motion. The board unanimously approved the completeness.

APPLICATION HEARINGS

The Board swore in Dennis Shushunov of 738 Bogart Road. He introduced his architect John Munisiski of Mahwah. The Board accepted Munisiski's credentials as an expert witness and he proceeded to explain the application. He said it was a replacement of the front steps of the house adding a covered porch. He said it would be 14 feet wide by 5 feet deep. It would be built of wood with composite decking. It would have a shed roof and be elevated 8 steps above grade. Mark

Skербetz, Zoning Officer commented that the applicant was before the board for a 5 foot deficit in the front yard. There were no questions from the Board and Mayor Mignone moved the approval with a second by (not audibly identified). The Chairman noted that the councilman had not been officially appointed so he was unable to vote this evening. He further noted that the two new members would be voting replacing absent members Mehrman and Chinigo so they would be voting members. The following members voted affirmatively: Ryan Givens, George Sederias, Mayor Edward Mignone, Chris Caslin, James Arakelian, Chairman, Lou Grasso, Dr. Jeffrey Gerwitz.

Arakelian said the Board would be going a little out of order then he called Mr. Barrett up for informational purposes. Mr. Barrett said he had Patrick Anderson with him. Anderson represented the landlord and he had discussions with Mr. Costa over the letter he had written. He said that all the items that were a problem with the landlord and the applicant have been resolved. He said there were two items that he wished to discuss. There is a problem over the corral in the parking lot. He said without one it would create dangerous conditions in the lot with carts sliding down the hill onto an adjacent property. The Mayor noted that it had been previously decided to put the carts in the store and then the corral would not be needed. Barrett said that customers would not bring the carts back into the store and the Mayor quickly commented that they would not put them in the corral. Barrett wanted to know if it was an aesthetic problem with the corral. The Mayor said it was aesthetic and functional. Arkelian said he completely agreed with the mayor. He said we have not seen any good faith on this site and then a clothing bin showed up on the site. Barrett said that his client was unable to find out who authorized the placement of the bin. Anderson said that the lease does not permit these for any of the tenants. Arkelian said that he should have the two of them removed immediately. He said that he was particularly upset about the one on Kinderkamack but he said there was no problem if they were removed. The applicant then returned to addressing the corral. Arkelian said that when he shops at other grocery stores a person who is assigned to work the parking lot takes the cart almost immediately upon his removing his purchases and brings it back to the store. He continued that the Borough has "bent over backwards" to try and help this applicant. He said that the Borough has not bothered the applicant about his loading dock encroaching on Borough property, the extra signage on the windows. The biggest safety issued I see is having the loading dock in the right of way, the mayor explained. Arakelian noted that this was not a hearing. The other question the applicant had was the matter of putting all the dumpsters in one place. They would like to leave the dumpster where it is. The Mayor commented that it is

important to have the dumpsters closed. Arakelian noted that the last time he passed the dumpster was open and all kinds of vegetables were hanging out inviting animals and birds to feed on it. So the dumpsters and the enclosures must be closed. Arakelian asked about the vans. The vans are being eliminated, Barrett said. The mayor said that the neighbors have gone through a lot there. Barrett said it would be repaved and restriped. The fencing along the rear is supposed to be replaced. Costa said he would go over the site plan and make sure everything was addressed that the board requested. Arakelian said that he would put the application on the agenda for May 2, 2018. The board attorney announced that New York Market, 205 Kinderkamack Road will be carried to May 2, 2018 in the council chambers and the applicant waived all statutory time restraints.

Arakelian announced that the Zoning Officer was leaving and that there was a new Board Secretary Linda (inaudible) and he welcomed her.

ILBJ LLC
335 Johnson Ave.
Block 1405 Lot 3

Arakelian announced that this was a continuation of a prior hearing and that since that hearing the applicant met with the Board Engineer and the applicant has made the changes that the Board had requested. Mr. Montoro said that he would go over the changes sheet by sheet. 2/20/18 Revision would be the revision they were going over beginning with sheet #1.1 will be marked as A-10 as the parking deck was moved back to improve the slope for the cars because the building was moved back, the stairway around and moved the elevator, the islands were redesigned and the different levels were decreased by 2 feet. 1.2 the building was moved back and the parking deck moved back now the front has 15 feet 11 inches. The side pedestrian ramp has a little longer run. The total area of the building is about 13,242 1.3 (marked as A-12) only 3 revisions which are the same as on the other levels with the building decreased 2 feet, the parking deck revised and the slope of the ramp is longer. A.5 (marked as A-13) there are two drawings the elevation to the north changing the slope of the parking decks so you get a better idea of how the whole access will look. It shows the parapet. Sign B has been removed. The building itself looks the same but it has been shrunk. A1.6 (marked A15) the parapet detail which Mr. Mehrman requested is shown and the parking deck is level. The front to the street has been increased with the building moved back to the rear. The additional space to the street is shown.

The attorney commented that the applicant has worked to incorporate all the changes the board requested and that the applicant has even shown the streetscape so the board would know what the applicant was planning. When the entire parking lot was moved back the applicant was able to do several things to address the board's concerns. Arakalian asked the Board Engineer for his comments. Mr. Costa said that all the topics that were discussed were addressed. Some diminimus topics that are engineering related could be taken care of by the engineer. There was a question about moving the mechanical equipment and Montoro responded that it was moved to the roof and that was why there was the parapet as Mr. Mehrman had suggested. He said the placement was directed by code. The mechanical room is located on the lowest level as shown on the plan. Site plans from the main building and not the parking structure came into question and if it needs a variance it needs to be made a variance. It is 15 feet 11 inches from the parking structure. Two parallel parking spaces on the lower level are 10 x 18' and I don't see how they can maneuver out of those spots. Montoro said it would be better to keep it as possibly employee parking. Trash removal would be taken out by a private hauler by a hand truck to the street. Side yard setback and coverage variances have been eliminated. The attorney also noted that no D variances were required.

The Board opened the meeting to the public and Timothy Cora who represents 41 Grand Ave. LLC asked if there were any changes to the side of the building which adjoins his client which would be to the left as you face the building. Montoro replied that there were no changes to the side that his client faced. The board closed the public hearing.

Brian Shortino, project engineer, was the next witness and Mr. DeVito asked him to clarify the side yard setbacks. The setbacks to the parking structure - the rear 42 inch retaining wall is on the property line, the front structure is a lower wall 5 ft. and to the upper wall is 15 ft. the setback to the building is 81.2, the sublease side is 6 and the opposite side is 15 and to the building itself is 15 ft. from the property line. The building coverage is 32.6 for the building, the impervious coverage is 80.9 which is the maximum lot coverage but it is less than that in actuality. The loading zone is noted with a sign but it is undersized and it should be included in the notes. Mr. Costa, the Borough Engineer, noted that there is curbing on the adjacent property and that should be addressed. The applicant commented that there is no agreement signed but the two property owners are working together. There is an external and internal stair for . The ramp has been lowered. The streetscape has been submitted. The sewer problem has been worked out with the DPW and that has been addressed in the plan. A pump has been added to the

parking garage so there will be no problem in storm. An internal chute has been added to take care of the garbage. The only question is the damage to Johnson Avenue and how much of that they will take care. The Mayor asked if the parking variance is still the same. Shortino responded that one space was lost in the moving the handicap space. 500 sq. ft. of the building was reduced and that would amount to two parking spaces needed. The slope is 11.3%, the southerly side had no change and it is 10%. The mayor noted that there will be trenching on the street and that will have to be repaved and he wanted that noted in the resolution. He wanted it repaved curb to curb and there was some discussion and it was decided that Mr. Costa would determine the extent of the repaving that had to be done.

At this time the Board Attorney noted that she did not have a vote chart from the February 17, 2018 meeting and she wanted to confirm with Mr. DeVito the members that were present. Her notes showed Messieurs. Krey, Mehrman, Mayor Mignon, Chairman Arakelian, Caslin and Grasso. Dr. Gerwitz said he was in attendance at the February 17th meeting. There was a question as to exactly what variances were being granted. The attorney said that she would like Mr. Shortino to go over that so she could compare her list to his.

He provided the following list of required variances:

- 71 spaces are required – 61 provided
- The Loading space is undersized
- Parking spaces are required to be 12 x 20 – 10 x 18 provided
- Building coverage
- Setbacks for all sides need a variance
- Signage variances as two signs allowed – three proposed
- Maximum sign height variance required
- 3' minimum setback for paved area – 0 proposed

Design exceptions requested are:

- Front yard parking
- Slope of the driveway
- Minimum buffer is not proposed.

DeVito was asked if they had determined if the parking structure was an accessory structure or part of the building. He responded that he had chosen to present the proposal as one structure so that all the variances that were required would be granted rather than someone question why they didn't request a specific variance. The board asked their engineer to determine if the parking structure was part of the

building and his answer was yes, the parking structure and the building are one. He said according to Borough Ordinance the parking structure is part of the building. The attorney advised the board that they would be making their decision based on the entire structure. She also asked Mr. DeVito if he was also seeking preliminary and final site plan approval and soil movement approval. She confirmed that 5,360 cubic yards would be removed. Timothy Cora, 41 Grand Avenue – no information regarding the construction of the retaining wall has been supplied and I am asking that Mr. Costa keep my client advised of the exterior finishes of that wall. Anything would look better than the deteriorating railroad tie wall that currently exists but that he would be apprised of exterior finish. Costa agreed to take charge of the wall. The Chairman thanked the engineer and the planner for working hard to get this project where it is today. He called for a motion to accept or decline the application. The board attorney said that a motion was required and at that point she would be able to note the conditions the board has previously noted.

1. The lighting on all signage had to be turned off by 11 pm and must be on a timer.
2. The applicant would take care of all necessary sewer and water hook ups.
3. The applicant will light the proposed ramps.
4. Developers Agreement with indemnification from the owner to the Borough.
5. Indemnification was a condition of approval, must have insurance, etc.
6. The applicant will be responsible for the streetscape and the landscape.
7. The applicant will be responsible for the curbing on the adjacent property with Belgian Block.
8. Have a developers agreement with the adjacent property owner with such items as above mentioned.

Mr. Cora once again speaking for the adjacent property owner questioned how the application could have been heard without the written agreement of his client considering the Board is approving a curb on his client's property. Mr. DeVito said that the two had been working together on the application and everything is subject to the approval of the adjacent owner. The Board Attorney said the legal answer is that if another lot owner's land is being discussed during the course of a meeting that the lot owner must be listed and the notice should have included that lot as well. Cora asked if the consent had to be written and he was advised that it was case law that it had to be written and the adjacent owner would be part of the application.

The Mayor then questioned if the proposal could be approved without the curb. He wanted to know if it was there for water flow or to prevent soil erosion. Then there was some question as to which curb Cora was speaking about. Costa showed the Board and then DeVito said that the Belgium Block curbing on page 2.2 could be eliminated with no detriment to the proposal. If they worked out an agreement with the neighboring property, it would be added back at a later date. Then the applicant's engineer pointed out that they are talking about a six inch curbing and that it could be put on the applicant's property as it does close the asphalt paving and it abuts the retaining wall. The Board Attorney then made the correction as the movement of the curbing to the applicant's property. The Mayor said that he had a concern that turning templates had not been submitted with this application. Without such information it would be impossible to determine if emergency vehicles could respond to this building.

The attorney went back to conditions of the resolution:

9. Details as to the fencing are to be provided.
10. If there is any damage to public streets during the course of construction, the applicant will be responsible to repair the streets. This includes Johnson Avenue. The Mayor commented that there will be damage to the roads as they are adding to the infrastructure.
11. The applicant will have to refer to the Police Department to get approval for the route the trucks will take to remove the soil. It was noted that some of the roads are county roads and it may require county or even state approval to use them for this purpose.

The chairman asked if Costa had defined the state of repair for the streets in his letter. Costa had responded that he could mention that they are going to trench the water connection, the sanitary sewers and the connection to the storm sewers so that by the time they are done, it would probably be better to do a street resurfacing.

12. Mr. Costa is to retain authority over the proposed retaining wall. Mr. Cora asked that the Board put a line in the resolution that allowed the curbing to be put on the applicant's property or on the adjacent property as the property owners formally agree. The Board felt that would be too confusing and maintained that the applicant would have to come back to amend his site plan. Mr. Cora asked what is his client wanted to build the wall on his property and the Board Attorney and the mayor explained that it would be his right to build it on his own property.

13. The applicant has agreed to return to the board if more retail is planned or any additional parking relief is required.
14. The turning templates are required to be supplied by the applicant.
15. The applicant must insure that emergency vehicles are able to access the building including lower levels.
16. The applicant agrees to all the stipulations of the Letter from the Borough Engineer and the Borough Planner.
17. The applicant agrees to any other conditions that might arise as the application proceeds.

There were no last comments from the public.

Motion to approve or deny the application was called. The Mayor commented that it is large and bulky and I'm not sure this is best for the Borough of River Edge. DeVito asked the Mayor to move the motion. Mayor moved and Dr. Gerwitz seconded the motion. The Attorney called the roll as follows:

Dr. Gerwitz – No
Mr. Grasso – No
Mayor Mignone – Yes
Mr. Caslin - Yes
Chair Arakalian – Yes

Mr. DeVito thanked the board especially the Mayor. He commented that it was a project they could be proud of.

Chair Arakalian asked for a little latitude from the curfew as there was one more application to be heard this evening and there have been a couple of snow days which have delayed things. He thanked the board for allowing the last application to be heard. This application was held over from 3/21/18.

MCG Realty
620 Kinderkamack Road
Block 617 Lot 17

Christopher Martin, Esq. from Morris and Mahoney thanked the board for hearing the application this evening. He said he had two witnesses to be heard, the planner and the project engineer. The Board Attorney noted that all the notices were in order and the applicant had also noticed the property owners within 200

feet of the adjacent properties which were also in this application. She said that the board had jurisdiction over this application.

Martin advised the board that the application is a completely new application that a prior application had been for residential use but the property is located in a C-1 zone. They are seeking relief for a proposed second floor office space addition. The only variance required is from Ordinance 350.25 which addresses off street parking. He submitted a site plan which was approved by the board on May 20, 2010 which will be part of the testimony on the application.

Scott Lurie was qualified as a professional architect and an expert witness. He testified that he had prepared the plans for the three office second floor addition to the subject property. It was marked as A-3. Second floor plan 3,000 square ft. office space which will be sub divided as tenants rent the space and determine how much space they need. Mr. Lurie commented that he had made an additional drawing which is revision dated 3/7/2018 to address comments by the board engineer and that drawing addressed a problem which he had eliminated. He noted where he had cut the parapet to allow the vent an outlet. He said he eliminated one window in the office space to meet code. The exterior materials will have the appearance of one continuous building. It will be aesthetically pleasing. There is a 4ft. parapet which blocks all view of roof top equipment. Previously there was a height variance applied for but this new plan has no such variance. He also testified that there will be no additional signage or lighting on the property. There are two dumpsters in the enclosure and that will remain the same. It will be sufficient for the site he explained. The existing space will remain as it is. It will have a new bathroom. The parking was reviewed by my employees and they measured the parking area. I also reviewed the review by Ken Job's plans and I used his meets and bounds which he did in 1997. This drawing has different parking spaces than what is existing. There are 40 spaces currently. There are additional 3 spaces which the owner is trying to get an easement to use. There is a 32 ft. space which Lurie believes that Sanducci's uses for three small spaces but they are small. Lurie certified that he believes all the parking spaces are safe with the circulation of the lot. Costa said that there was no way he could determine if the garbage situation was adequate as he does not know what business were going into the space. The sanitary sewer has to be televised to determine if it can handle the additional use that the addition will generate and that the drainage and the retaining walls have to be addressed. . He noted that there was some brick work that needed repair and that some curbing needed to be addressed and the streetscape was dated. Martin said that the applicant would comply with all matters addressed in Costa's letter of March 7, 2018. This applicant had previously gotten

relief from a parking space requirement of 83 to 56 and this application was for relief from an additional 12 parking space requirements. It was noted that there was no sign variance and only one sign on the building. Lurie said that there would be a directory in the lobby and that would have the occupants name and room number. They would have to know the address. The applicant also confirmed that no tenants were yet under consideration. It was noted that medical offices would be excepted according to the borough ordinance. The Mayor commented that in addition to the front façade the other sides seemed to need a face lift and the applicant agreed to fix the entire existing exterior. There was a discussion of the venting but it was resolved. The code for the kitchen doesn't call for a sprinkler but there are some separation requirements. The applicant said he would meet every part of the New Jersey Code.

Gary Gorski, the site owner, has an auto part business. There is little retail business – it has changed because of Amazon. Apple Tree Pre School 2 ½ - 5 is located on the first floor of the site. The school has 14 full time teachers that utilize 7 parking spaces. The school is open from 6 am to 6 pm. They are not open the weekends. The only time the parents park on site is when there is a party or something like that. The restaurant has 11 on weekdays and 18 on the weekend. About half take the bus. The restaurant is open from noon to 10 or 11 seven days a week. The restaurant is busier on the days the school is closed. Mr. Gorski noted that the school is sprinkled and so is the entire restaurant. He noted that he has shared parking with the neighbors. They all get along. The only signed parking agreement with MCG is Hanna Realties. If you were to sprinkle the entire building, I would look kindly on this application. Janette Bogart was recognized as a licensed professional engineer. She said the property it is in the C-1 Commercial Zone and she supplied a copy of a traffic study. In 2010 they approved a 53 parking space variance. Currently the applicant has gotten an easement for 8 additional spaces and three from an agreement with a neighbor which accounted for 11 additional parking spaces. She said she had visited the property 5 times to do her report and that at various times during the day she had done parking counts and there were always 20 to 23 spaces empty. She said she did the counts during the day because that would be the time that the proposed offices would need parking. Ms. Bogart distributed a series of parking inspection photos. She noted that this parking variance is less than what is previously granted. The positive criterion shows it promotes the purpose the land use law. It is an appropriate use of the space and the only variance is for parking. The Master Plan mentions exactly what the applicant is proposing she noted. There is no impairment to your zone plan as I pointed out that it is mentioned in the Master Plan. We don't have an agreement with Lot 15 and it is my opinion that we don't need an agreement

there. Board Engineer Costa said the question is whether the board agrees that the shared parking plan would work. There was a question about the occupancy of the office space and he was told that there were 12 parking spaces required and they were providing 11. The Mayor pointed out that there was three cars parked in the fire zone. He was also curious of what would happen if Sanducci's expanded. She said they would have to come back for a variance as restaurants require different parking. There was a question as to what is required as a parking space and the Mayor requested that the spaces in question be striped and no parking should be allowed there. Lot 15 is owned by an additional owner. With regard to MCG and Hanna Realty have entered into a 12 space agreement, there is also an agreement with Lot 14 with three spot. There was no member of the public who spoke.

Conditions for approval:

Conditions for approval were read by the Board Attorney:

1. Subject to compliance to the Board Engineer.
2. Backup distances to be provided
3. The applicant may have to enter into an agreement with Lots 14 and 16 for parking spaces totaling 15.
4. Façade will be consistent around the building
5. No additional signs will be added to the outside.
6. All codes must be complied with.
7. Any and all additional approvals which may be necessary.
8. The applicant will move the handicapped space from the rear to the front.
9. The applicant will sprinkle the entire building.
10. No restaurant use on the upper floor except if they were going to use it for administrative use.
11. If a more intense use is proposed, the applicant will have to return to the Board.
12. A developer's agreement will have to be drawn up.
13. Eliminate space #36 from the plan and stripe that space.
14. Enforce no parking in the fire zone.
15. The applicant agreed to follow Mr. Costa and Mr. Beran's letter.

There was some question about the parking license may be revoked and then what happens. The owner of the property has to notify the Borough within 30 days that the parking license was revoked; the property owner would have to come back to the board. The applicant thanked the board for working so late to get the application heard. The chairman then asked for a motion to approve or deny and Mr. Caslin moved to approve and Mr. Grasso seconded the approval. The roll call was as follows:

James Arakelian - Yes
Lou Grasso - Yes
Mayor Edward Mignone _ yes
Ryan Givens – Yes
George Sederias – Yes
Chris Caslin - Yes
Dr. Jeffrey Gerwartz – Yes

Mayor Mignone asked the board if there was anything in the capital projects on the list that had been provided to the Board that would impact the Master Plan. The Board noted that there was no objection.

The chair noted that The NJ Historical Association will be putting a museum on the former junk yard and they will be coming in with that. The NJ Batting will be coming in with some new plans on an informal basis, before the come in with all their plans. The former Sunoco station site will be putting up one or two bedroom condos so the Board will be busy. Mayor Mignone commented that the Planners will be having some Re Development Plans and the New Civic Center will be coming in soon. At this point the chair called for the board to adjourn and the vote was unanimous.