

MINUTES
RED BANK ZONING BOARD OF ADJUSTMENT
August 16, 2018

The Red Bank Zoning Board held its regularly scheduled meeting on Thursday August 16, 2018 in the Municipal building, first floor Council Chambers, 90 Monmouth Street, Red Bank, New Jersey.

A workshop meeting was held at 6:00 pm. The following members were in attendance: Lauren Nicosia, Ray Mass, Sean Murphy, Richard Angowski, Anne Torre, Kate Triggiano and Stephanie Albanese. Also present were Glenn Carter, PP, Director of Planning & Zoning, Board Attorney Kevin Kennedy, Esq., Ed Herrman, P.E., T & M Associates and Dina Anastasio, Board Secretary. At the workshop meeting the Board discussed the evening's agenda.

Chair Lauren Nicosia called the meeting to order at 6:30 pm. She announced that notice of the meeting was mailed to the Asbury Park Press, Two River Times, and the Star Ledger; was filed with the Borough Clerk; and posted on the Municipal Bulletin board. A roll call showed the same members in attendance.

The Board saluted the flag and opened the meeting to the public for non-agenda items, of which there were none.

Administrative Matters:

Anne Torre motioned to approve the minutes of the July 19, 2018 meeting; seconded by Richard Angowski. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Anne Torre and Kate Triggiano. Nays: none.

Lauren Nicosia motioned to approve the Resolution for the denial of the application for Athas Dounelis, seconded by Kate Triggiano. Ayes: Lauren Nicosia and Kate Triggiano. Nays: none.

Ray Mass motioned to approve the Resolution for Chris Fabricant, seconded by Anne Torre. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Anne Torre and Kate Triggiano. Nays: none.

Ray Mass motioned to approve the Resolution for the amended site plan for Metrovation Anderson, seconded by Richard Angowski. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Anne Torre and Kate Triggiano. Nays: none.

Public Hearings:

Aaron Katzel, 18 Hubbard Park, Block 11, Lot 18.01, Z12640 (continued from 5/17/18 and 7/19/18)

This application was not heard and will continue on September 20, 2018, at the request of the applicant.

The following items are noted, as these speakers could not stay for the meeting to hear the application of David Popkin, 170 Monmouth Street.

Ron Gasiorowski, Esq. stated he has discussions with Ed McKenna and his client regarding the application. He commended the cooperation received and has no objection to the good faith effort put forth to modify the plans and relocate the proposed loading zone to the front of the building. Mr. Gasiorowski represents the property owners of 164 and 166 Monmouth Street.

Michael Pugliese, Esq. represents the property owner of 27 West Street. He is concerned with the proposed island for trucks to swing around.

Ed McKenna, Esq. stated for 40 years drivers have accessed the property owned by Tubby's. Lauren Nicosia recused herself from the remainder of the meeting. Ray Mass assumed the role as acting Chairman.

Carol Gorhan and Roger Palacio, 42 Harding Road, Block 57, Lot 28, Z12824

The applicant was represented by Ed McKenna, Esq. Glenn Carter was sworn.

The following Exhibits were entered: A-1; DPA and Denial Letter: A-2; Intent to Proceed: A-3; Disclosure of Ownership: A-4; Narrative; A-5: Plans prepared by SOME Architects date 5/18/18: A-6; Review Letter by Glenn Carter dated 7/31/18: A-7A – K; Photos taken by Glenn Carter on 6/19 and 8/3/2018.

Ed McKenna described the application of the existing 2 family residence located on the corner of Harding and Hudson. The applicants inherited the property, which is in a state of disrepair. They are proposing substantial improvements. Currently there are (2) two bedroom apartments, one on the lower level and one on the upper level. The one unit doesn't actually have a second bedroom, it is an area measuring 7 X 9, which is a space off the master bedroom.

The applicants have tried to obtain tenants for the units; however, anyone interested is looking for a three bedroom dwelling and an additional bathroom.

There are no additional bulk variances required for this application and the parking requirement will be met.

Also noted, this property will be a good transition from the surrounding single family dwellings to the Ray Rap project of multiple residential units to be built across the street.

Ed O'Neill, RA, was sworn and accepted as an expert witness.

Exhibit A-8; Attic and Basement Plan dated 8/14/18 was entered.

Currently the first floor provides 800 square feet of living space and the second floor provides 760, both undersized. The proposed plans provide 1,217 square feet on the first floor and 1,177 on the second. The bedrooms will be about 12 X 13 and 11 X 10.

The second floor has access to the attic and currently includes an area measuring 165 square feet, which can be used as a study or play area. The stairs are to be refinished.

New windows, roof, paved parking area and garden are proposed.

The current property area does not conform, when using the permitted front yard setback. The impervious coverage will be reduced.

The positive criteria include utilizing an undersized lot to provide multi-family dwellings.

The lot is located across from the school. This will be a physical improvement and provide housing in a family oriented area to address the requirements of the vision plan.

As there are really no negative criteria, the benefits outweigh the detriments.

The trash will possibly be situated in the rear of the property by the fence.

Sean Murphy confirmed there will be one a/c in the attic and one in the basement. The condenser will be on the fenced side of the property.

Glenn Carter indicated a variance may be required for the permitted 3 - foot condenser setback, as about 1 foot will be provided. It was determined the applicant would try to relocate the

condenser, so a variance would not be required. He also confirmed the applicant is able to comply with all the requests indicated in the review letter.

The basement will be used for storage and utilities only, no living space. Access is from the exterior.

Sean Murphy made a motion to approve the application, seconded by Richard Angowski. Ayes: Ray Mass, Richard Angowski, Sean Murphy, Anne Torre, Stephanie Albanese and Kate Triggiano. Nays: none.

David Popkin, 170 Monmouth Street, Block 36, Lot 23.01, Z12376

The applicant was represented by Ed McKenna, Esq. Ed Herrman was sworn.

He explained this is the second part of the bifurcated use app, which received approval last year for the use portion. As previously noted, the concerns were worked out with Ron Gasiorowski, Esq. and his clients. Mr. Pugliese has no opposition.

The following Exhibits were entered; A-1; DPA: A-2; Denial Letter: A-3; Plans prepared by Jason Fitchter dated 6/18/18: A-4; Stormwater Statement of Compliance: A-5; Engineer's Report prepared by InSite Engineering dated 6/18/18: A-6; Architectural Plans prepared by Joseph DiPompeo dated 6/15/18: A-7; Red Bank Standard Existing Bldg. Conversion prepared by Nelson Benevidas, Architect: A-8; Zoning Board Resolution 2017 – 28 issued for the use portion of the application: A-9; T&M Review Letter dated 8/2/18: A-10A – H; Photos taken by Glenn Carter dated 6/22/17.

Ed McKenna explained the project, which is to include 1,344 square feet of retail space on the first floor with 20 residential units on the 4 floors above. 1, 2 and 3 bedroom units (which include 4 COAH on site units) are proposed.

There is a combination of owned and leased land for this project. A 99 - year lease with the Two River Theatre has 67 years remaining.

There are 15 on site and 13 off - site parking spaces being provided.

There were a series of meetings transacted to accommodate the surrounding businesses, including Tubby's, Bagel Station and the check cashing store. All issues were resolved.

Jason Fitchter, PE, PP, was sworn and previously accepted as an expert witness.

The following Exhibits were entered; A-11; Aerial View of the Property with an overlay of the County Tax Map and 200 – foot Property Radius dated 6/18/18: A-12; Illustrated Site Plan Layout dated 6/18/18.

The property, located across from the train station, with a total lot coverage of 13,675 square feet, backs to the Two River Theatre. There is a 50 - foot wide access road easement with the Theatre. The existing 5 story building will be renovated to include a retail tenant on the first floor and residential on the 4 floors above. The addition will include parking and an open air lobby with three floors of residential above.

(8) one bedroom, (11) two bedroom and (1) three bedroom apartments are proposed. The existing utilities will be used. The engineer will determine if additional utility hookups are required.

The impervious coverage will be reduced by about 642 square feet. Vehicular traffic pattern will have entry from West Street and exit onto Monmouth Street.

The Resolution approving the use required 1 parking space for each residential unit.

This plan will accommodate that requirement, leaving 8 spaces for the retail tenant (which is 4 more than required). They are providing access to vehicles for Tubby's and the other surrounding businesses.

There will be on-site maintenance staff. Each floor will have a refuse chute. The staff will collect the trash daily and bring to a central location. The retail tenant will be responsible for their own trash.

LED lighting will be provided, including wall sconces, downlights in the parking area and wall pack lighting on the West Street side. This area along the Theatre property will exceed the foot candle limitation, but it will be welcome to light this area.

Landscaping will be provided. The West Street side of the property will be compliant with the Shade Tree Committee requirements; however, the Monmouth Street side will not. As this side is located very close to the property line, they do not want to lose space. Additional trees can be located on the West Street side and if this doesn't accommodate for the requirement, they will pay into the tree fund, if necessary.

The sign will be compliant or the tenant will have to seek a variance.

The existing parallel parking spaces, measuring 8 X 19 will continue to be provided.

As there is low turnover for this type of development, drivers become comfortable with the driving routine and there should not be any trouble.

ADA compliance access will be provided for the residential tenants. The area for public access already exists, and they will not be changing.

The Fire Marshal's comments recommend access along the easement area.

The building will have a sprinkler system.

Gary Elgrim, 36 E. Roosevelt Circle, Red Bank, owner of Tubby's was sworn. He wanted to clarify the height of the garage door being provided for access would be 10 feet or higher. The architect will clarify.

He has had a good working relationship for 35 years with the neighbors.

He currently has rented space for a lot across the street, where he parks his cars. If he should lose this option and have to park his cars in the rear of his lot, this would not give the access they are providing and Gary would not want to guarantee something for the future, that he cannot provide.

Ed McKenna stated his client is providing a garage door, which is providing access, but, since the applicant does not own Tubby's property, he cannot make him provide the access.

Richard Angowski clarified there is currently no easement for Tubby's. There is an easement between 164 and 166 Monmouth Street.

Kevin Kennedy clarified the Zoning Board does not have jurisdiction to make Gary provide the access. He did indicate a prescriptive easement, which states in theory that if something is used for a period of time, basically the right is assumed. He recommended Gary speak with his attorney.

Nelson Benavides, Architect, 361 8th Street, Jersey City, was sworn and previously accepted as an expert witness. He described the plan and referred to Exhibit A-7. There will be 4-5 residential units on each floor. They are creating a more loft-like living experience, with large windows, dark brown at the base, sandstone buff above and zinc windows. All units will be compliant with the 900 square feet required, except for 4 units, which will be 890 square feet.

The COAH units will be (1) 3 bedroom unit and (3) two bedroom units. The trash enclosure will be 120 square feet on the ground level and about 100 square feet on the upper levels. Two dumpsters will be located in a central area.

Ed McKenna explained he has discussed the topic with DPW and was informed that if the applicant uses a particular type of dumpster, the town will pick up the trash. If additional pick-ups are required, a private hauler can be utilized and the town would pay. They will monitor the situation.

Ed Herrman clarified that clothing stores have been the type of retail tenants inquiring about the space.

Ed O'Neill, PP, was sworn and previously accepted as an expert. His previous testimony included the positive/negative criteria, so the Board did not feel it was necessary to repeat testimony. He will be using the train station overlay district for guidelines.

The application provides for urban living and unoccupied open space on the roof. The existing building height is 63.4 feet; whereas, 50 feet is allowed. The building addition will be 48 feet. They have been a good neighbor for altering the plans to accommodate the neighbors' concerns. The parking deficiency of 3 spaces is reduced with the retail/residential tenants utilizing the spaces. Density is created on this unique shaped lot and the internal trash facility is positive.

Kevin Kennedy clarified there have been no changes since the 2017 approval to negate the testimony presented at that time.

Ed McKenna stated this is a great project and commended the applicant for working with the neighbors.

Ed Herrman confirmed the applicant is agreeable to the terms recommended in his review letter and also requested a copy of the lease for the file.

Kevin Kennedy reviewed some conditions of approval to include the more frequent collection of trash, if necessary; COAH units will be done simultaneously, as each floor is completed; prior approval is in effect, unless specifically negated with this approval and that the Board is not granting any power to anyone regarding the issues discussed with Tubby's and the access concerns.

Ed McKenna reiterated an easement is not being provided to Mr. Gasiorowski's client, but a license will be (a license goes with the person and an easement goes with the land). A formal agreement will be prepared and signed by all. He also noted the representatives from Bagel Station were not in attendance at the meeting tonight, nor have they participated in the discussions with the applicant, despite being invited. If they want to speak in the future, only a license will be offered to them also. Mr. McKenna would like to amend the prior Resolution regarding Item G.

Sean Murphy questioned if they did not reply, is this the same as a rejection of the offer.

A motion was made by Anne Torre, seconded by Sean Murphy to approve the application. Ayes: Ray Mass, Richard Angowski, Sean Murphy, Anne Torre, Stephanie Albanese and Kate Triggiano. Nays: none.

On a motion made by Richard Angowski, seconded by Ray Mass, the meeting was adjourned at 8:45pm.

Respectfully Submitted,

Dina Anastasio, Secretary, Red Bank Zoning Board of Adjustment