Regular Public Meeting of the Englewood Cliffs Planning Board
Minutes
June 11, 2015

The Regular Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Fehre at 7:30 PM.

Present at Roll Call:
Mr. Fehre
Ms. Rosenberg
Mr. Chinman
Mr. Trovato
Mr. Kiky Kim, 1st Alternate
Mr. Sean Kim, 4th Alternate

Absent:
Mr. Dooly
Mr. Kilmartin
Mr. Nikow
Mayor Parisi
Councilwoman Oh
Mr. Duffy, 2nd Alternate
Mr. Surace, 3rd Alternate

Also Present:
Bernard Mirandi, PE, of Boswell Engineering, the Borough's consulting engineer
Michael Kates, Esq., of Kates Nussman Rapone Ellis & Farhi, the Board's attorneys.

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, The Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace.

Flag Salute led by: Jeff Chinman

Old Business:

Application #250K - Site Plan Approval and Conditional Use Variance
Montrose Dean, LLC – 476 Sylvan Ave. - Block 506 Lot 13
Approved – Resolution

Mr. Kates, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. The Chairman asked for a motion to approve. Motion was made by Mrs. Rosenberg, seconded by Mr. K. Kim. Chairman asked for roll-call vote of the members that were eligible to vote: J. Rosenberg, J. Chinman, K, Kim and S. Kim, they each voted to adopt this Resolution; it was unanimous.

Application #238K - Major Subdivison
Estate of Josephine Mauro
361, 365, & 369 Mauro Rd. – Block 406 Lots 1, 2, & 3

The application was adjourned and will re-advertise.

New Business:

No New Business

Chairman Fehre asked for a motion to open to public. Motion was made by Mrs. Rosenberg, seconded by Mr. Chinman and carried unanimously by voice vote.

There were no comments.

Chairman Fehre asked for a motion to close the public portion, and adjourn the meeting at 7:36 pm. Motion was made by Mrs. Rosenberg, seconded by Mr. K. Kim and carried unanimously by voice vote.

Respectfully submitted

Caterina Scancarella

Caterina Scancarella
Planning Board Administrative Secretary

ENGLEWOOD CLIFFS PLANNING BOARD

REGULAR MEETING – June 11, 2015 7:30 PM

10 Kahn Terrace, Englewood Cliffs, NJ

CALL TO ORDER

The meeting of the Englewood Cliffs Planning Board will come to order this (date). The time is (time).

"OPEN PUBLIC MEETINGS ACT" STATEMENT

Public notice of this meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, Star Ledger, and posting of notice on the municipal building bulletin board at 482 Hudson Terrace, Englewood Cliffs.

ROLL CALL

FLAG SALUTE LED BY:

APPROVAL OF MINUTES: April 9, 2015 & May 14, 2015

OLD BUSINESS:

Application #250K - Site Plan Approval and Condition Use Variance
Montrose Dean, LLC – 476 Sylvan Ave. – Block 507 Lot 13
Approved - Resolution

Application #238K - Major Subdivision
Estate of Josephine Mauro – 361, 365 & 369 Mauro Rd.
Block 406 Lots 1;2,&3

NEW BUSINESS:

PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA

ADJOURNMENT

ORIGINAL

PLANNING BOARD

BOROUGH OF ENGLEWOOD CLIFFS

IN THE MATTER OF THE APPLICATION OF	:	
MONTROSE DEAN, LLC FOR COMMERCIAL SITE	:	**MEMORIALIZATION RESOLUTION**
PLAN APPROVAL FOR LOT 13 IN BLOCK 507	:	**APPLICATION NO. 250K**
476 SYLVAN AVENUE	:	

WHEREAS, MONTROSE DEAN, LLC, c/o Seligman Rosenberg, MD, 301 Bridge Plaza North, Fort Lee, NJ 07024, applied on or about March 3, 2015 to the Planning Board of the Borough of Englewood Cliffs for commercial site plan approval for building interior and building exterior alterations to utilize the 2-story structure as a restaurant/delicatessen with seating for twenty- six (26) patrons, in the "B-4 Restricted Commercial" zoning district; and

WHEREAS, public hearings were conducted on April 9, 2015 and May 14, 2015, upon proper notice certified by applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and

WHEREAS, applicant was represented by Saverio V. Cereste, Esq., 1624 Center Avenue, P.O. Box 845, Fort Lee, NJ 07024; and Joel J. Reinfeld, Esq., 120 Sylvan Avenue, Suite 202, Englewood Cliffs, NJ 07632 appeared on April 9, 2015 on behalf of Stephen Morfesis, the owner of 26 John Street; and Bruce C. Morrissey, Esq., 456 Sylvan Avenue, Englewood Cliffs, NJ 07632 appeared on May 14, 2015 on behalf of Stephen Morfesis; and

WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were accepted as part of the record, as follows:

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- Certification of Taxes Paid dated February 12, 2015 by Vincent Bruno, Tax Collector, certifying payment of taxes through the 1st quarter, 2015; and

- Engineering review letters from the Board's consulting engineer Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Philips Avenue, South Hackensack, NJ 07606, dated April 8, 2015 and May 13, 2015; and

WHEREAS, admitted into evidence were the following exhibits:

Exhibit A-1 – Engineering Plans prepared by Gregory J. Polyniak, P.E., P.P., and Anthony Kurus, P.E., P.P., Neglia Engineering Associates, 34 Park Avenue, P.O. Box 426, Lyndhurst, NJ 07071, dated February 13, 2015, consisting of nine sheets, as follows:

Sheet 1.00 – Cover Sheet/Key Map;
Sheet 2.00 – Site Plan;
Sheet 3.00 – Grading Drainage, and Utility Plan;
Sheet 4.00 – Landscaping Plan;
Sheet 5.00 – Lighting Plan;
Sheet 6.00 – Soil Erosion and Sediment Control Plan;
Sheet 7.00 – Construction Details;
Sheet 7.01 – Construction Details; and
Sheet 1 of 1 – Boundary and Topographic Survey;

Exhibit A-2 – Architectural Plan entitled "Alterations to Existing Commercial Building" prepared by Raymond Virgona, R.A., Virgona & Virgona, 115 River Road, # 1031, Edgewater, NJ 07020, dated January 16, 2015 and consisting of drawing No. SK-1;
Exhibit A-3 – Two photographs of the subject property;
Exhibit A-4 – Survey of Property prepared by Frank R. DeSantis, P.L.S., Morgan Engineering, LLC, P.O. Box 5232, Toms River, NJ 08754, dated June 4, 2014;
Exhibit A-5 – Drainage Calculations Report prepared by Anthony Kurus, P.E., P.P.,
Exhibit A-6 – Colorized Sheet 2.00 of Engineering Plans entitled "Site Plan" prepared by Gregory J. Polyniak, P.E., P.P., and Anthony Kurus, P.E., P.P., dated February 13, 2015 with latest revision April 14, 2015;
Exhibit A-7 – Sheet 2.00 of Engineering Plans entitled "Site Plan" (not colorized) prepared by Gregory J. Polyniak, P.E., P.P., and Anthony Kurus, P.E., P.P., dated February 13, 2015 with latest revision April 14, 2015; and
Exhibit A-8 – Turning templates prepared by Anthony Kurus, P.E., P.P.; and
Exhibit O-1 – 12 photographs of existing conditions provided by Adonas Morfesis, 26 John Street, in opposition to the application; and

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WHEREAS, admitted into evidence without exhibit references were the following:

- Application dated March 2, 2015; and
- Sheet 2.00 of Engineering Plans entitled "Site Plan" prepared by Gregory J. Polyniak, P.E., P.P., and Anthony Kurus, P.E., P.P., dated February 13, 2015 with latest revision April 24, 2015; and
- Sheet 4.00 of Engineering Plans entitled "Landscaping Plan" prepared by Gregory J. Polyniak, P.E., P.P., and Anthony Kurus, P.E., P.P., dated February 13, 2015 with latest revision April 24, 2015; and

WHEREAS, testimony in support of the application was given by Anthony Kurus, P.E., P.P. and Raymond Virgona, R.A.; and the following persons commented on the application or questioned the witnesses: John Sinde, 24 John Street; Adonas Morfesis, 26 John Street; Sang Hoon Oh, 25 John Street; James Macagna, 18 Chestnut Ridge Road, Montvale, NJ; and Bernard N. Mirandi, P.E., gave testimony; and

WHEREAS, the Planning Board did consider the testimony and evidence presented, the following are the findings of fact and conclusions of the Board:

The Site

1. Montrose Dean, LLC (hereinafter "applicant") is the owner of premises known as 476 Sylvan Avenue, Englewood Cliffs, New Jersey, Block 507, Lot 13 on the Tax Map of the Borough ("the Site"). The Site consists of a free-standing two-story building which was previously utilized as a delicatessen/coffee shop. The prior use ceased in December 2013, and the property has been allowed to deteriorate. The Site consists of 12,976± sq. ft. and is located on the northwest corner of Sylvan Avenue and John Street. The Site is located in the B-4 Restricted Commercial District.

The Development Application

2. The B-4 District permits as principal uses business offices, professional offices, banks and accessory parking areas on the same lot as the principal use. Under Code §30-5.7b, conditional uses are listed as (1) banks with drive-in facilities and (2) eating and drinking establishments, excluding fast food restaurants. (Underscore added)

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3. The Site was purchased by applicant on or about August 12, 2013, at which time it was no longer utilized as an eating and drinking establishment. Applicant proposes to refurbish the subject premises without increasing the building's footprint, and re-establish a restaurant/delicatessen with seating for twenty-six patrons (originally thirty patrons). The subject property consists of a two (2) story building with the first floor having a gross floor area of 1,670 sq. ft. and the second floor of 929 sq. ft. The first floor will be dedicated to serving patrons and providing seating on premises. The second floor is proposed as a "prep" area for the principal use as a restaurant delicatessen.

4. Applicant proposes fourteen on-site parking spaces, which is consistent with the requirement under Code §30-7.4. Entry onto the Site was originally proposed from John Street, with a new curb cut and concrete driveway apron at the south end of the Site. No exit or entry on Sylvan Avenue was proposed. In response to the Board's comments on April 9, 2015, the site plan was revised as follows:

a. The point of ingress and egress to the site is now limited to Sylvan Avenue.
b. The tandem parking spaces located on the south side of the building has been eliminated.
c. Two (2) parking spaces have been orientated on the northerly boundary line.
d. The solid waste dumpster location has been moved north into the buffer area to permit employee parking on-site.
e. The exit onto John Street has been eliminated and two (2) parking spaces have been added on the south side of the property.
f. The southerly side of the Site will be landscaped with dense shrubbery, screening the Site from abutting homes. This supplements a twenty (20) foot landscaped buffer on the westerly side of the subject premises.

5. Site improvements also include repaving of the parking lot, striping, pavement markings, and lighting. The existing projecting sign does not require a variance, notwithstanding its face being changed to reflect the new user. It shall continue as a non-illuminated sign.

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ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
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The Variances

6. As stated above, the proposed use as an "Eating and drinking establishment" is a "conditional use" under Code §30-5.7b, subject to the conditions specified in Code §30-8. Those conditions cannot be satisfied, in the following particulars:

	Code §30-8	Proposed
Minimum lot width	100 feet	78 feet
Side yard (corner)	15 feet	9.9 feet
Off-street parking	1 space per 3 seats plus 1 space per each employee on peak shift = 14 spaces	12 spaces

7. In addition, there are the following dimensional variances generated by the redesign of the parking area and rehabilitation of the Site:

- Parking Space Dimensions: 9 ft x 19 ft required (§30-10.2.a.), 9 feet by 18 feet proposed.

- Aisle Width: 90 Degree Parking Aisle Width; 25 ft required (§30-10.2.b.), 26 ft., 22.3 ft. and 18 ft. is proposed.

- Parking Space Setback: Minimum Parking Setback from Lot Line; 10 ft required on a corner lot measured to the Street Right-of-Way (§30-10.2.g.), 0.5 feet proposed.

- Projecting Signs: §19-17 permits signs to project from the walls of buildings provided they are fastened so as to be at right angles to the building line of same. No such sign shall be more than 1 foot in thickness and may not project more than 1 foot from the building line. Total area of advertisement shall not exceed 16 square feet on each face. The applicant proposes that the existing projecting sign remain. The architectural plans note that the existing sign is to remain. As it appears to project more than 1 foot from the building line of an existing non-conforming variance condition exists.

- Front yard parking: As per Code §30-10.2.f, front yard parking is prohibited. There are two proposed parking spaces located within the front yard. As a condition of approval herein, they will be reserved for employee parking so as to minimize activity.

8. The legal justification for a conditional use variance under N.J.S.A. 40:55D-70d(3) is set forth in Coventry Square vs. Westwood Zoning Board of Adjustment 138 N.J. 285 (1994) as follows:

ATES NUSSMAN RAPONE
ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
HACKENSACK, N.J.
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> In the case of conditional uses, . . . [T]he municipality has determined that the use is allowable in the zoning district but has imposed conditions that must be satisfied. As evidenced by this record, a conditional-use applicant's inability to comply with some of the ordinance's conditions need not materially affect the appropriateness of the site for the conditional use. Accordingly, the standard proof of special reasons to support a variance from one or more conditions imposed on a conditional use should be relevant to the nature of the deviation from the ordinance . . .
>
> . . . We hold that the proof of special reasons that must be adduced by an applicant for a "d" variance from one or more conditions imposed by ordinance in respect of a conditional use shall be proof sufficient to satisfy the board of adjustment that the site proposed for the conditional use, in the context of the applicant's proposed site plan, conditions to be an appropriate site for the conditional use notwithstanding the deviations from one or more conditions imposed by the ordinance. Thus, a conditional-use variance applicant must show that the site will accommodate the problems associated with the use even though the proposal does not comply with the conditions the ordinance established to address those problems.
> Ibid. at pp. 298-99.

9. The Board concludes that the conditional use deficiencies are attributable to the unusual configuration of the property and that these deficiencies do not defeat the intended use of the Site. The Site can reasonably accommodate the deficiencies and, in fact, the proposed site improvements offer a better zoning alternative for the Site, as they offer better traffic management and buffers that will insulate the permitted commercial use from residences abutting John Street; buffers that did not exist when the property was previously used for the same or a similar purpose. The Board incorporates the specific comments of its consulting engineer, Bernard N. Mirandi, P.E., as set forth in his review letter of May 13, 2015 and as related to stormwater management, site lighting, signage and all other site plan considerations.

10. As to the negative criteria of the statute, the Board has interposed conditions on its approval that are intended to minimize any adverse effects on adjoining residential properties. See Conditions A through J below. N.J.S.A. 40:55D-70d compels a finding of "substantial

KATES NUSSMAN RAPONE
ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
HACKENSACK, N.J.
07601-7407

detriment" to the public good or will "substantially impair" the zone plan and zoning ordinance. The Board concludes that any negative consequence is insubstantial, considering the use is permitted in the zone and the prior use of the property was similar.

11. Further, the proposed use as an eating and drinking establishment is consistent with the neighborhood scheme which demonstrates restaurant and other commercial uses in the immediate vicinity. To the north of the subject premises on Sylvan Avenue are a real estate office and a restaurant. South of the premises on Sylvan Avenue is a bank. See photographic Exhibits A-3 and O-1.

12. The juxtaposition of single-family homes across John Street and west of the Site, do not alter the predominant commercial nature of the neighborhood, as it abuts Sylvan Avenue. The Site is located in the B-4 Restricted Commercial Zone District, not the residential zone. The proposed use is consistent with not just the Zoning Ordinance but also the Master Plan and the neighborhood scheme.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Englewood Cliffs that the development application be approved, subject to the following conditions:

CONDITIONS SPECIFIC TO THE APPLICATION

A. Applicant shall comply with Mr. Mirandi's recommendations in his review letter of May 13, 2015, and as he may require during the construction phase, based upon field conditions.

B. Ventilation shall be from the northerly wall of the building, venting northward and away from adjoining homes.

C. Hours of operation shall be no earlier than 6 a.m. and no later than 5 p.m. on each day of a seven-day week; and the premises shall not be made available to related or unrelated third parties after hours.

D. John Street sidewalk shall not extend in a westward direction further than the proposed buffer area.

E. The proprietor of Grissini's or any successor thereto shall be not be permitted to locate its dumpster on the Site.

F. There will be no pick-ups and/or deliveries on Saturdays and Sundays.

KATES NUSSMAN RAPONE
ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
HACKENSACK, N.J.
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G. Trash pickups to occur no earlier than 9 a.m. and no later than 6.00 p.m.

H. The site plan shall include a pedestrian walkway from the parking lot.

I. The handicap parking shall be relocated to the rear, where a rear portal to the premises is located. The two spaces in the front yard shall be used for employee parking.

J. Applicant shall furnish a revised site plan reflecting the aforesaid plan modifications and conditions, and it shall be a condition precedent to the issuance of a building permit.

GENERAL CONDITIONS

K. All representations made by applicant or its agents shall be deemed conditions of this approval and any misrepresentations by applicants contrary to the representations made before the Board shall be deemed a violation of this approval.

L. The action of the Planning Board in approving this application shall not relieve the applicants of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

MOTION BY: MR. CHINMAN
SECONDED BY: MR. SURACE

IN FAVOR: MS. ROSENBERG, MR. SURACE, MR. CHINMAN, MR. K. KIM, MR. S. KIM and MR. KILMARTIN

OPPOSED: MR. FEHRE

DATE APPLICATION APPROVED: MAY 14, 2015

DATE RESOLUTION APPROVED: JUNE 11, 2015

EDWIN FEHRE, CHAIRMAN
PLANNING BOARD

Attest:

CATERINA SCANCARELLA
PLANNING BOARD SECRETARY

KATES NUSSMAN RAPONE
ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
HACKENSACK, N.J.
07601-7407