

Regular Public Meeting of the Englewood Cliffs Planning Board
Minutes
December 11, 2014

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
Mr. Dooly
Mr. Trovato
Mr. Kilmartin
Mr. Kiky Kim, 1st Alternate
Mr. Duffy, 2nd Alternate
Mr. Surace, 3rd Alternate
Mr. Sean Kim, 4th Alternate

Absent:

Mrs. Rosenberg
Mr. Chinman
Mr. Kilmartin
Mr. Nikow
Mayor Parisi
Councilman Aversa

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.

Minutes for November 13, 2014 were not completed and will be on the January 2015 meeting.

Flag Salute led by: Mr. Duffy

Old Business:

Application #241K - Site Plan Approval
Conopco, d/b/a Unilever
700 Sylvan Avenue – Block 806-Lot 7 & Block 808-Lot 9
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 Mr. Surace, seconded by Mr. S. Kim. Chairman asked for roll-call vote of the members that were eligible to vote: E. Fehre, K. Kim, V. Surace and S. Kim, they each voted to adopt this Resolution; it was unanimous.

Application #240K - Sign Variance
All Pro Motors, LLC
380 Sylvan Avenue – Block 441 – Lot 18
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 Mr. Duffy, seconded by Mr. Surace. Chairman asked for roll-call vote of the

members that were eligible to vote: E. Fehre, K. Kim, S. Duffy, V. Surace and S. Kim, they each voted to adopt this Resolution; it was unanimous.

Application #235K - Amended Site Plan Approval Roof Top Antenna
NY SMSA Limited Partnership, d/b/a Verizon Wireless
580 Sylvan Avenue – Block 806 – Lot 9
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 Mr. Duffy, seconded by Mr. K. Kim. Chairman asked for roll-call vote of the members that were eligible to vote: E. Fehre, K. Kim, S. Duffy, V. Surace and S. Kim, they each voted to adopt this Resolution; it was unanimous.

New Business:

Application #243K - Site Plan Approval with Variance
Duke Evan – 32 Sylvan Avenue – Block 205 – Lot 2

Applicant was not present Mr. Kates stated that this application will be dismissed without prejudice.

Application #244K - Height Variance
Haren Parikh
45 John Street – Block 507 – Lot 21

Mr. Saverio Cereste, Esq., 1624 Center Avenue, Fort Lee, NJ representing Mr. Haren Parikh gave an overview of the application. Mr. Cereste stated that the issue is a topographical issue. The grade of the property difference is approx. 8 feet on one side. He stated this property is very similar to a previous application he presented to the board at 36 Sherwood Ave. The property has a very steep grade as did the Sherwood Ave. property. The property is approx. 15, 293.2 sq. ft. which exceeds 2 times the minimum of 7000 sq. ft. and is in the RB zone. The frontage is 117 ft. wide and 130 ft. in depth. The property is vacant. The height variance we are seeking is 39.43 ft. where 32 ft. at the curb is permitted and 33.22 ft. where 30 ft. on grade is permitted which makes this a D6 variance. The structure will consist of 5,969 sq. ft. of living area, basement will be 2,131 sq. ft. and the garage will be 646 sq. ft. (3 cars).

Mr. Mark Martins, Martins Engineering, 55 Walnut St., Norwood, NJ described the site that was depicted on the site plan marked as exhibit "A1" a color rendering dated October 23, 2014. We are proposing a single family dwelling and all of the front, side, and rear setbacks are within the requirements. The lot coverage is also within the requirements. This is a oversized lot which requires a lot coverage of 3,500 sq. ft. and we are proposing 3,495 sq. ft. so we are under the requirements. The building heights are the variances we are requesting which again are from grade 30 ft. is required and we are proposing 33.22 ft and from the curb require 32 ft. we are proposing 39.43 ft. This property has a significant topographic effect. The property rising up from the front to the back considerably and goes downhill easterly from John St. to Castle Drive. The drop is approx. 6 ft. across the front of the property. Also, it has a drop from the back down to the front where the back is approx. 16 ft. higher on the westerly side and 10 ft. higher on the easterly side. Because of these topographic constraints we have to request these height variances. If the lot was flat we would not have any variances for this

home to be built. The front driveway and circular driveway are all in compliance with the borough ordinances. We will work with the borough engineer for a stormwater management plan to address any issues on this site. Mr. Martins stated that there is no public sewer in front of this property and that he thinks there isn't any public sewer on John St. at all. This property and others on the east side of John St. tie into a line that goes out to Sylvan Ave. while the otherside of John St. ties into one going down Castle Drive. There is currently an easement that runs into the neighboring property for the sewer what we are proposing is two options. One is to tie into the existing sewer which is on the property, or run a new line to the nearest sewer which is approx. 70 ft away to Castle Drive. Mr. Martins stated that due to the topographic of the property we have to cut into the property which will require some retaining walls to be built along the side and rear of the property. The rear will be 3 ft. terrace walls to allow for a leveled area for a patio. There will be a number of trees that will have to be taken down.

Mr. Cereste questioned Mr. Martins in regards to Boswell Engineer's letter and if they will comply with the requests. Mr. Martins stated he would work with Mr. Mirandi on these issues. Mr. Martins stated that the soil testing has been done and was submitted as exhibit "A4" Johnson Soils Report dated 9/16/14.

Mr. Trovato questioned the rear patio if it is 6" or less above grade. Mr. Martins stated it is flush with the property.

Mr. Fehre questioned if they could cut more into the rock/hill to lower the house. Mr. Martins answered that he feels this would be the best if they cut more it will cause more of a disturbance and the wall would be much higher.

Mr. Mirandi stated that he will be happy to work with the applicant in regards to the stormwater management if the board approves this application. Mr. Mirandi questioned if all the retaining walls proposed would not make an additional variance due to impervious coverage. Mr. Martins stated he feels that they are at 45% now and they will be able to stay within the requirement of 51%.

Mr. Mirandi discussed the sanitary sewer issue and that the using of the easement to the neighbors property will have to be looked at prior to approval of the use and that the DPW superintendent are Borough would allow the sewer to go towards Castle Drive even though Castle Drive has been recently paved.

Mr. Dooly requested looking into the use of pervious pavers for the driveway areas. Mr. Martins stated that it could be but does not suggest it due to the slope of the driveway and would work with the Borough Engineer for stormwater management. The driveway slope will be at 12% which is the max permitted.

Mr. Cereste's next witness Mr. Robert Zampolin, Architect gave a description of the house. The house will be 5,969 sq. ft of living space with the first floor being 2,789 sq. ft., the second floor being 3,180 sq. feet, the basement being 2,131 sq. ft., and the garage being 646 sq. ft. (3 cars). Mr. Zampolin described the design of the house. The basement will be all open clear space for gaming items, etc. There will not be sleeping quarters in the basement. The garage will be for 3 cars and storage. The first floor will have a foyer, dining, living room, guest bedroom, kitchen, prayer room, and great room. The second floor will have 4 bedrooms with baths. The roof plan will have pitches of 4 on 12, 5 on 12, 6 on 12 and 12 on 12 for the steeper areas. The ceiling heights will be first floor 10 ft., second floor 9 ft., and the basement will be 9 ft. The mechanicals will be all in the rear yard.

Mr. Dooly questioned if you make the ceiling heights first floor 9 ft, second floor 8 ft., and use 4 on 12 for the roof what type of height will you have then. Mr. Zampolin stated he would lose 2 feet and if we change to 3 ½ on 12 one more foot. Mr. Dooly stated so it would be 3 ft lower.

Mr. S. Kim questioned what is going to be done with all the attic space there is flexibility to use part of that and lower the ceilings. Mr. S. Kim feels there is a way to redesign and bring the height down some.

Mr. Surace stated if you make the ceiling heights 8 ft. for the basement, 9 ft. for the first floor and 8 ft. for the second floor and make some tray ceilings it would work. We don't see 10 ft. ceiling in Englewood Cliffs. Mr. Zampolin stated if we go to 8 ft. plate and use 3 ½ on 12 for the roof we will pick up about 2.1 feet of the height.

Mr. Fehre asked for them to come back with something more realistic for here. Maybe 8 ft. for basement, 9 ft. for first floor, and 8 ft. for second floor. If you lower the house into the ground by 1 foot and lower the ceiling heights you could be down to approx. 35 ft.

Mr. Zampolin came back after discussing it with the applicant that they would do 8 ft. for basement, 9 ft. for first and second floor and use the 3 ½ on 12 for the roof, but you will still only get 2.1 ft. Mr. Fehre stated he would really like to see them look at this some more and it is a little to excessive the way it is right now. We have discussed changing the code to go to 35 ft. but not 39 ft. Mr. Fehre stated he would like to see it at 35 ft. One foot further down and 1 foot off each floor and a different pitch on the roof will bring it down by 4 ft. which will make it close to 35 ft.

Mr. Cereste requested a 5 minute break to discuss this with his professionals and applicant.

Mr. Zampolin stated after discussion we have decided to take 1 foot off each floor ceiling height and use 3 1/2 on 12 for the roof. That will make it first floor 9 ft., second floor 8 ft., basement 8 ft. and the roof will gain 13". The height will then be at 35.35 ft.

Mr. Mirandi questioned on the easterly side the egress window with a ladder. Mr. Zampolin stated that it is to get up and out of the window. It will be a second means of egress there will not be any sleeping areas in the basement.

Mr. Cereste called Mr. David Spatz, professional planner, 60 Friend Terrace, Harrington Park, NJ. Mr. Spatz gave testimony describing the property at 45 John Street and the homes with the area. Mr. Spatz stated there are only 2 variances we are requesting and they are for height. Maximum building height at grade proposing is 30.22 ft. where 30 ft. is permitted so this now changes the variance from a "D6" to a "C" variance. As to the maximum building height at curb we are now proposing 35.5 ft. where 32 feet is permitted and we will be 3.5 feet above that so we are looking at the "D" variance range by a few inches. Mr. Spatz stated that this would be a good application and should be granted. He feels there are more positive impacts with no negative impacts.

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

There were no comments.

Chairman Fehre asked for a motion to close to public. Motion was made by Mr. Surace, seconded by Mr. K. Kim and carried unanimously by voice vote.

Chairman Fehre requested a motion to approve the application with the condition to comply with any requirements to the Borough Engineer as reflected in his review letter dated 12/9/14 and to submit amended architectural plans revising the measured heights to 30.22 ft on grade and 35.55 ft. on curb. Motion was made by Mr. Trovato, seconded by Mr Surace. This motion was approved by roll-call vote, 7 Ayes, (Mr. Fehre, Mr. Dooly, Mr. Trovato, Mr. K. Kim, Mr. Duffy, Mr. Surace, and Mr. S. Kim), No Nays, No Abstentions.

Informal Site Plan for Police Garage

Mr. Kates stated that this is municipal project and can be done with following or not following the zoning rules, but as a matter of the public it really should be brought here for them to be aware of the proposed project.

Chief Michael Cioffi described the possible project of putting a garage on the borough property for the storage of police vehicles and other equipment. Mainly to keep the vehicles out of the weather conditions to make it easier to use. There will also be some area for storage of files, etc. This will not be funded by borough funds the funds to do this will come from confiscated police funds. We have already gotten federal approval for the use of these funds. Total cost will be approx. \$98,000. The site will be the old ambulance building location which was removed and recently paved. This will be a one story building approx. 48 x 60 in size with 5 – 10 x 10 steel doors and 2 entry doors. The building will be able to house approx. 16 vehicles. The building will be prepped for electric that is needed now and for future additions (garage openers), etc. This is a pre-manufactured building. The location would be where the parking lot has been extended and paved where the old ambulance building was.

Mr. Trovato stated that you would have to have a spec form for the building with all the requirements. This should be done by an architect and get a simple detailed drawing.

Mr. Fehre was in agreement with Mr. Trovato and that it is a great idea to get the cars out of the weather conditions. Have it all drawn out with the electric etc.

Chief Cioffi questioned should he come back to the board with this information. Mr. Kates stated that he is done with the board he feels that he should work this out with the borough attorney Carter Corriston.

Approval of 2015 Meeting Calendar

Chairman Fehre asked for a motion to approve the 2015 Meeting Calendar. Motion was made by Mr. Trovato, seconded by Mr. K. Kim and carried unanimously by voice vote.

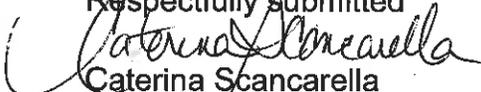
Chairman Fehre asked for a motion to open to public. Motion was made by Mr. Duffy, seconded by Ms. Rosenberg and carried unanimously by voice vote.

Mary O'Shea, 12 Irving Avenue, Englewood Cliffs, had a question in regards to the application that was previously before the board at 120 Charlotte Place. She felt the application was a good one but was questioning the issue in regards to the encroachment of the parking spaces into the borough right of way and the leasing agreement that had to be prepared and voted on at the Mayor and Council meeting. She felt that it wasn't really addressed at the board meeting and should have been in more depth. She just wanted to let the board know that in the future it should be done that way.

Mr. Kates stated that this information was in the resolution and that this was because of the borough engineer's information of the encroachment. It was mentioned and discussed at the meeting maybe not in depth.

Chairman Fehre asked for a motion to close the public portion, and adjourn the meeting at 9:30 pm. Motion was made by Mr. Trovato, seconded by Mr. Surace and carried unanimously by voice vote.

Respectfully submitted



Caterina Scancarella

Planning Board Administrative Secretary

ENGLEWOOD CLIFFS PLANNING BOARD
REGULAR MEETING – December 11, 2014 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: November 13, 2014

OLD BUSINESS:

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700 Sylvan Avenue – Block 806 – Lot 7 & Block 808 – Lot 9
Approved – Resolution

Application #240K - Sign Variance
All Pro Motors, LLC – 380 Sylvan Avenue – Block 441 – Lot 18
Approved – Resolution

Application #235K - Amended Site Plan Approval Roof Top Antenna
NY SMSA Limited Partnership, d/b/a Verizon Wireless
580 Sylvan Avenue – Block 806 – Lot 9
Approved – Resolution

NEW BUSINESS:

Application #243K - Site Plan Approval with Variance
Duke Evans – 32 Sylvan Avenue – Block 205 - Lot 2

Application #244K - Height Variance D-6
Haren Parikh - 45 John Street – Block 507 – Lot 21

Informal Site Plan for Police Garage

Approval of the 2015 Meeting Calendar

COMMITTEE REPORTS

Master Plan Committee
Subdivision Committee
Site Plan Committee

PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA

ADJOURNMENT

ORIGINAL

PLANNING BOARD BOROUGH OF ENGLEWOOD CLIFFS

**IN THE MATTER OF THE APPLICATION OF CONOPCO, :
INC, FOR SITE PLAN APPROVAL, SIGN APPROVAL AND : MEMORIALIZATION RESOLUTION
VARIANCES RELATING TO LOT 7 IN BLOCK 806 AND LOT 9 : APPLICATION NO. 241K
IN BLOCK 808, 700 SYLVAN AVENUE :**

WHEREAS, UNILEVER UNITED STATES, INC., a division of **CONOPCO, INC.,** with its North American headquarters at 700 Sylvan Avenue, Englewood Cliffs, NJ, applied on or about August 20, 2014 to the Planning Board of the Borough of Englewood Cliffs for site plan approval and ancillary variances relating to site improvements, including the construction of a canopy enclosing the existing courtyard, a new entry pavilion, a "pop-up store"¹ as an accessory use (which was subsequently eliminated), a combined heat and power-generating ("CHP") unit, solar canopies in the parking area, roof-top solar panels and electric vehicle ("EV") charging stations; and to add 50 additional parking spaces (subsequently changed to 51 parking spaces) and driveway improvements; and

WHEREAS, public hearings were conducted on September 11, 2014, October 9, 2014, October 27, 2014 and November 13, 2014, 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

¹ "Pop-up store" may be a misnomer. The space is intended for the display and tasting of Unilever products, but for the benefit of Unilever employees and not retail sales. A pop-up retail space is a venue that is temporary: the space could be a sample sale one day and host a private cocktail party the next evening. The trend involves "popping up" one day, then disappearing anywhere from one day to several weeks later. They are often used by marketers for seasonal items such as Halloween costumes and decorations, Christmas gifts and Christmas trees.

WHEREAS, Michael Profita, Esq., of Profita & Associates, LLC, 106 Grand Avenue, Englewood, NJ 07631, represented applicant; and

WHEREAS, interdepartmental communications and advisory reports of municipal departments of agencies were received from:

- Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Philips Avenue, South Hackensack, NJ 07606, dated September 11, 2014 and October 22, 2014 (with attachments);
- Fire Chief George Drimones, dated August 25, 2014; and
- Fire Chief George Drimones and Fire Official Joseph Cardullo, dated September 3, 2014; and

WHEREAS, admitted into evidence were the following documentary exhibits:

Exhibit A-1 – “Site Layout Plan Exhibit” prepared by Kenneth D. Dykstra, P.E. & L.S., Dykstra Walker Design Group, 21 Bowling Green Parkway, Suite 204, Lake Hopatcong, NJ 07849, dated September 10, 2014;

Exhibit A-2 – Tabular Figures provided by William Horgan, Facilities Manager of Conopco/Unilever, 800 Sylvan Avenue, Englewood Cliffs, NJ;

Exhibit A-3 – “Parking Analysis” provided by William Horgan, dated September 11, 2014;

Exhibit A-4 – Floor Plan and elevation views, unsigned and undated;

Exhibit A-5 – Solar Power information packet prepared by NRG Energy, 211 Carnegie Center, Princeton, NJ 08540, unsigned and undated;

Exhibit A-6 – CHP;

Exhibit A-7 – Report of Steve Volaric of Shen Milsom Wilke, 44 Princeton Hightstown Road, Suite 21, Princeton, NJ 08550 to Mr. Peter Divone of Unilever, dated May 31, 2012, with attachments;

Exhibit A-8 – Glare Study unsigned and undated, consisting of four sheets, as follows:

Sheet PV1.0 – Glare Study - Summary;

Sheet PV1.0 – Glare Study - Summer;

Sheet PV1.0 – Glare Study - Winter; and

Sheet PV1.0 – Glare Study - Equinox;

Exhibit A-9 – “Site Layout Plan Exhibit” prepared by Kenneth D. Dykstra, P.E. & L.S., dated September 10, 2014 with latest revision October 9, 2014;

Exhibit A-10 – “NRG Response to Planning Board Questions” unsigned and dated October 24, 2014, with attachments;

Exhibit A-11 – “Site Layout Plan Exhibit” prepared by Kenneth D. Dykstra, P.E. & L.S., dated September 10, 2014 with latest revision October 27, 2014;

Exhibit A-12 – “Existing Aerial View” prepared by Perkins + Will Schematic Design, 215 Park Avenue South, 4th Floor, New York, NY 10003, undated;

Exhibit A-13 – “Campus Axon – Level Roof” prepared by Perkins + Will Schematic Design, undated;

Exhibit A-14 – “Campus Elevations” prepared by Perkins + Will Schematic Design, undated;

Exhibit A-15 – “View From Floyd Street” prepared by Perkins + Will Schematic Design, undated;

Exhibit A-16 – “Signage Details” prepared by Perkins + Will Schematic Design, dated September 9, 2014;

Exhibit A-17 – “Marketplace Section” prepared by Perkins + Will Schematic Design, undated;

Exhibit A-18 – “Site Layout Plan Exhibit” prepared by Kenneth D. Dykstra, P.E. & L.S., dated September 10, 2014 with latest revision November 4, 2014;

Exhibit A-19 – Acoustic Report prepared by Brad Berlin, Senior Acoustic Consultant, Commsult Communications, 28 Strawtown Road, West Nyack, NY 10994, dated November 11, 2014; and

Exhibit A-20 – “Interior View of Marketplace prepared by Perkins + Will Schematic Design, undated; and

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

- Application, dated August 20, 2014;
- Letter of Kenneth D. Dykstra, P.E. & L.S. to Cathy Scancarella, dated November 6, 2014;
- Preliminary and Final Site Plan prepared by Kenneth D. Dykstra, P.E. & L.S., dated August 15, 2014, unless otherwise noted and consisting of 15 sheets, as follows:
 - **Sheet 1 of 21** – Title Sheet;
 - **Sheet 2 of 21** – Topographic Survey Plan Overall Site, dated May 7, 2014 with latest revision August 15, 2014;
 - **Sheet 3 of 21** – Site Layout Plan, Overall Site;
 - **Sheet 4 of 21** – Solar Array Layout;
 - **Sheet 5 of 21** – Site Layout Plan “A”;
 - **Sheet 6 of 21** – Site Layout Plan “B”;

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- Sheet 7 of 21 – Site Layout Plan “C”;
- Sheet 8 of 21 – Site Layout Plan “D”;
- Sheet 9 of 21 – Grading & Utility Plan “A”;
- Sheet 10 of 21 – Grading & Utility Plan “B”;
- Sheet 11 of 21 – Grading & Utility Plan “C”;
- Sheet 12 of 21 – Grading & Utility Plan “D”;
- Sheet 13 of 21 – Lighting Plan;
- Sheet 14 of 21 – Existing Drainage Area Map; and
- Sheet 15 of 21 – Proposed Drainage Area Map;

• Preliminary/Final Site Plan prepared by Jeffrey P. Allen, L.L.A., Maser Consulting, P.A., 777 Chestnut Ridge Road, Suite 202, Chestnut Ridge, NY 10977, consisting of 6 sheets, as follows:

- Sheet 1 of 6 – Overall Landscape Plan;
- Sheet 2 of 6 – Landscape Plan “A”;
- Sheet 3 of 6 – Landscape Plan “B”;
- Sheet 4 of 6 – Landscape Plan “D”;
- Sheet 5 of 6 – Landscape Details; and
- Sheet 6 of 6 – Landscape Details;

- Computer generated rendering of the subject premises;
- Computer generated rendering of the subject premises; entitled “Solaire 360”;
- Noise Comparisons report dated October 28, 2014;
- Prior Resolution of the Board of Adjustment in the matter of General Electric Pension Trust and Engledale, Inc., dated October 8, 1973;
- Prior Resolution of the Planning Board in the matter of CPC International, dated February 9, 1989;
- Prior Resolution of the Board of Adjustment in the matter of Best Foods, dated September 14, 1998;
- Prior Resolution of the Board of Adjustment in the matter of Conopco, Inc., dated July 13, 2009;
- Prior Resolution of the Planning Board in the matter of Conopco, Inc., dated February 8, 2007;
- Prior Resolution of the Planning Board in the matter of Conopco, Inc., dated July 10, 2008; and
- Prior Resolution of the Planning Board in the matter of Conopco, Inc., dated June 10, 2010; and

WHEREAS, testimony in support of the application was given by William Horgan, Facilities Manager, Unilever; Kenneth D. Dykstra, P.E. & L.S.; Jeffrey P. Allen, L.L.A. of Maser Consulting,

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P.A; Timothy Johnson, Director of Engineering, NRG Energy, Inc., IDS Center, 80 S 8th St, Minneapolis, MN 55402; Mark Gimigliano, P.E., Dykstra Walker Design Group; Joan Blumenfeld FAIA, FHDA, LEED AP, Perkins+Will, 215 Park Avenue South, 4TH Floor, New York, NY 10003; Brad Berlin; Amanda Langwell, Perkins+Will; and the following persons questioned the witnesses or commented on the application: Rahav Boaz, 653 Floyd Street, Ralph and Nancy Nachman, 657 Floyd Street; Jeffrey Chinman, 611 Floyd Street; Barbara Straus, 603 Floyd Street; Mary O' Shea, 12 Irving Avenue; and Joseph Cioffi, 30 Sylvan Avenue; 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. Block 806, Lot 7 and Block 808, Lot 9 are bordered by Sylvan Avenue (Route US 9W) to the east and by Floyd Street to the west. The site is in the B-2 Limited Business Zone and is utilized for general office purposes. The site borders the R-A Residential Single Family Zone to the west and on a higher elevation.

2. Lot 7 in Block 806 is used for parking. Lot 9 contains an existing two and three story office building consisting of four wings that are interconnected by bridged walkways. The total floor area of the existing building and its four wings is 297,340 square feet.

The Development Application

3. According to William Horgan, Unilever's Facilities Manager, the courtyard enclosure (named "Project Unity"), is intended to facilitate the interaction of employees now disbursed in two locations (700 and 800 Sylvan Avenue) and four wings of one location (700 Sylvan Avenue) into a central space. As stated by applicant's architectural consultants, this open and interactive concept is modern office technology. Sales and marketing departments, supply chain, human resources and finance will be consolidated into 700 Sylvan Avenue. The proposed improvements will not add employees; instead, they will serve the existing work force. Not testified to but

common knowledge is the fact that space in 800 Sylvan Avenue will be vacated as part of the consolidation of Unilever offices into 700 Sylvan Avenue.

4. A primary component of the development plan is the construction of a new front entry pavilion. There is currently no prominent entry and, coincident with the Englewood Cliffs location becoming Unilever's North American headquarters, a "branded" front entry visible from Sylvan Avenue has been designed, bearing the corporate "U" logo sign over the entry. The combined floor area of the covered courtyard and the new entry pavilion will be 23,867 square feet.

5. Also prominent in the plan are the canopy-mounted solar array panels that will populate the parking areas. Apart from the obvious inducement to provide electricity and reduce the need to draw from the power grid, Unilever's witnesses emphasized that Unilever is advancing a corporate image of energy efficiency and environmentally sensitive technology. Because of their prominence, and the proximity of homes overlooking the site on the west, applicant was required to produce a "glare analysis" (Exhibit A-8). It concluded that ten homes within a range and elevation to be exposed to glare events, could be so exposed for 10 to 15 minutes per day; but masked by the sun in the early morning hours and the glare minimal or totally eliminated when trees are in full leaf.

6. Over the course of four nights of hearings, the development plan has been modified to address Board and community concerns. Thus, the EV kiosk has been eliminated and replaced by enhanced landscaping. The CHP unit has been relocated behind a screened mechanical area. Compare Exhibit A-18 (12-13-14) with Exhibit A-11 (10-12-14). The height of the screened mechanical area will provide some screening of the CHP unit as viewed at vantage points in the residential zone to the west; and the enclosure will function as a noise barrier, reducing the decibel levels from 76dBa at the CHP unit to 17dBa at the westerly boundary of the property, 240± feet from the CHP unit. According to applicant's acoustics consultant, Brad Berman, the threshold of observable sound is 26dBa, and so the noise generated by the CHP unit will not be audible at the property line, much less from neighboring homes far removed from the property line and behind dense vegetative growth.

The Variances

7. The project will nevertheless implicate the following zoning criteria:

▪ The minimum number of required parking spaces is 1,496 for the existing building and the proposed enclosure of the courtyard. See Schedule B of Code Section 30-10.1 for "Business and Professional Office" (one space per 200 sq. ft. of floor area plus 1 space per 1000 sq. ft. for Warehouse & Distribution plus 1 space per 200s.f. for Office). Proposed on-site spaces are 909 (858 existing and 51 to be added), including 22 handicap accessible spaces (an increase of 2 such spaces). Through the testimony of Mr. Horgan and with reference to Exhibits A-3 and A-3, it was demonstrated that the existing spaces are more than adequate. Further, applicant received variances for deficient parking related to prior development applications, memorialized in Resolution No. 209K, adopted July 10, 2008, and Resolution No. 214K, adopted June 10, 2010. The Board concludes that the proposed total of 909 spaces is adequate; primarily because the conversion of an open courtyard to covered space will not increase the number of employees and history has shown the parking lot to be adequate.

▪ The existing parking spaces are undersized. According to Code Section 30-10.2.a, the required minimum parking stall dimension is 9 ft. by 19 ft. The dimensions of the 50 proposed new parking spaces are 9 ft. by 18 ft. and therefore undersized. Applicant also proposes to restripe a portion of the existing parking lot to create 110 compact car spaces which are proposed at 8 ft. by 18 ft. Again, the testimony and the Board's experience is that the site has been efficient with smaller spaces, and a variance is justified for the new spaces.

▪ The existing aisle widths in the parking areas are 24 ft., and proposed aisle widths in the new parking area and access drives are 24 ft. and 20 ft. Code Section 30-10.2.b requires a minimum width of 25 feet. Again, the testimony and the Board's experience is that the site has been efficient with smaller aisle widths, and a variance is justified for the proposed aisle width in the new parking area and access drives.

▪ Section 30-10.1(i) of the Code prohibits parking within the required front yard. This is an existing non-conformity as both the northeasterly and southeasterly lots contain parking spaces in the front yard between the front line of the lot and the nearest point of the building. Also new angled parking spaces are proposed in the front yard near Buildings "A" and "B". Three of the proposed new spaces will be within the 60 ft. required setback from Sylvan Avenue. The variances are justified.

▪ Schedule B of Section 30-10.1 of the Code requires three (3) loading dock spaces for floor space up to 100,000 sq. ft. plus one (1) space for each additional

60,000 sq. ft. Applicant indicates seven (7) loading dock spaces are required and two (2) spaces will be provided. As the application does not contemplate functional increases in shipping and receiving, the variance is justified.

▪ Applicant is requesting a variance from Section 19-15(b) (2) which states "Signs attached to and parallel to buildings shall not exceed 32 sq. ft. of total sign area and in no event shall exceed four (4) feet in height or 16 feet in length" and 19-13(e) which prohibits the erection of any illuminated sign. The size of the "U" logo sign and proposed illumination is justified. It will be visible only to motor vehicles traversing the heavily traveled Sylvan Avenue corridor. Further, the Unilever corporate headquarters is on a campus setting of 22.6 acres (6.848 acres on Lot 7, Block 806 and 15.757 acres on Lot 9, Block 808). There is no streetscape to harmonize the "U" sign with comparable signage.

▪ The proposed new development does not exceed the number of permitted stories, and the nonconformity of the number of stories in the existing buildings may continue.

Site Plan Considerations

8. Landscape Review. Applicant produced Jeffrey P. Allen, L.L.A., of Maser Consulting, who testified at length about proposed enhancements to existing vegetative growth, both natural and planted. Eight (8) additional shade trees were recommended, 3-inch caliper on planting, as well as fifteen (15) to twenty (20) evergreens. The Board also required a better definition of proposed planted lines, measures to suppress weed growth, a maintenance schedule and identification of parties responsible, plant replacement over a two-year maintenance period, a comprehensive sprinkler system in the areas of significant plantings, and a performance guaranty. The Board concluded that these objectives and others will be reviewed by the Environmental Commissions, in consultation with the applicant and the Borough Engineer, with the conclusions set forth in a revised landscape plan and with performance and maintenance guarantees set forth in a Developer's Agreement.

9. Stormwater Management. Applicant shall comply with the recommendations set forth in the October 22, 2014 review letter of the Board's engineering consultant, Bernard N. Mirandi, P.E., and as he may further recommend during the construction phase as field conditions warrant.

10. **Retaining Walls.** The site plans and construction details indicate both unit masonry and/or "blasted rock face" and gravity (natural stone) retaining walls. The retaining wall heights are proposed at 3 ft. and 4 ft. maximum height walls. Applicant is made aware that any retaining wall in excess of 4 ft. of exposed height shall require submission of stability calculations for review. Also, any retaining wall in excess of 4 ft. will require certification by a licensed Professional Engineer in the State of New Jersey.

11. **Noise Review.** Applicant is proposing CHP unit with two 200 kW gas engines. Noise prohibitions and permissible sound levels are part of Code Chapter BH: VI Noise, and fall under the purview of the Board of Health. Notwithstanding the foregoing, the CHP unit has been relocated behind a screened mechanical area, and the enclosure will function as a noise barrier, reducing the decibel levels from 76dBa at the CHP unit to 17dBa at the westerly boundary of the property, 240± feet from the CHP unit. According to applicant's acoustics consultant, Brad Berman, the threshold of observable sound is 26dBa, and so the noise generated by the CHP unit will not be audible at the property line, much less from neighboring homes far removed from the property line and behind dense vegetative growth. Sound testing shall be provided prior to the issuance of a Certificate of Occupancy and sound emissions shall be in conformance to Board of Health requirements and the requirements of this Resolution.

12. **Solar Array Installations.** As stated above, because of the proximity of ten homes overlooking the site on the west, applicant was required to produce a "glare analysis" (Exhibit A-8). It concluded the homes would be exposed to glare events, but only for 10 to 15 minutes per day and masked by the sun in the early morning hours and with minimal or no glare when trees are in full leaf. The solar panels shall be of anti-reflective composition as represented by applicant's energy consultant; and be the subject of a maintenance protocol that will be copied for the Building Department and the Borough Engineer and be adhered to by the applicant. The canopy over the 8 parking spaces at the northeasterly boundary of the property, closest to the Route 9W entry point, shall be removed and enhanced plantings will be located in this area.

13. Under the criteria of N.J.S.A. 40:55D-70(c)(2) the equities favoring the minor variances set forth above outweigh any detriments. The Borough has been able to stabilize its tax base with major development in the B-2 Zone along Sylvan Avenue and remains steadfast in encouraging its

full utilization, in the modern, commodious setting that continues to attract national and international corporate headquarters. The Board seeks by this approval to encourage a further investment of Unilever / Conopco in its Englewood Cliffs property.

14. As to the negative criteria of the statute, the Board cannot envision any adverse effect on surrounding properties, because of the modifications and conditions attendant to this approval.

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. The decibel level of the CPU unit at the base of the westerly face of the wall enclosing that unit shall not exceed 43dBa at all times. Sound testing shall be provided prior to Certificate of Occupancy being issued and sound emissions shall be in conformance to Board of Health requirements and the requirements of this Resolution.

B. Lights illuminating the new "fabric dome unit" will be turned off no later than 10:00 p.m.

C. Lighting illuminating the parking lots will not exceed in lumens the current installations, and will be turned off no later than 10:30 p.m.

D. Applicant has agreed to contribute the sum of \$43,900 to the Borough Stormwater Capital Improvement Fund, reflecting the established contribution fee of \$1 per square foot of additional impervious area, i.e. 43,900 sq. ft; to be paid prior to the issuance of a certificate of occupancy.

E. In addition to the engineering recommendations as set forth in the review letters Mr. Mirandi, any modifications arising during the construction phase shall require his approval.

F. Applicant's enhanced landscape plan will be reviewed by the Environmental Commission, in consultation with the applicant and the Borough Engineer. The resulting landscape plan shall be filed with the Board as an amended landscape plan. Any new plantings shall be supported by maintenance guarantees, to the limits allowed by the Municipal Land Use Law, also to be referenced in a Developer's Agreement by and between the Borough and applicant.

G. The solar panels shall be of anti-reflective composition as represented by applicant's energy consultant. In the discretion of the Borough Engineer, the installation shall be certified by a structural engineer as to minimum weight loads. There shall be an established maintenance protocol that will be copied for the Building Department and the Borough Engineer and be

adhered to by the applicant. The canopy over the 8 parking spaces at the northeasterly boundary of the property, closest to the Route 9W entry point, shall be removed and enhanced plantings will be located in this area.

H. Applicant shall file a revised Site Plan reflecting all final modifications and it shall be a condition precedent to the issue of any building permit for the proposed improvements.

I. Applicant shall comply with the comments and recommendation of the Fire Chief and Fire Official, to their satisfaction, and reflect any changes on an amended final Site Plan.

J. To the extent they are not inconsistent herewith, the prior conditions of prior approvals with respect to this site are ratified and confirmed. For example, as condition of a prior Unilever approval applicant was to submit pump data on the operating sanitary pump station. This was a result of the BCUA inspection and study of the sanitary sewer system infiltration and inflow (I/I) concerns. Based upon preliminary field tests conducted in the fall of 2012, it appears the Unilever campus sanitary lines are appropriately connected. The issuance of any building permit shall be contingent upon review and acceptance by the Borough Engineer.

GENERAL CONDITIONS

K. All representations made by applicant or its agents shall be deemed conditions of this approval and any misrepresentations by applicant 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 applicant 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. S. KIM

SECONDED BY: MR. K. KIM

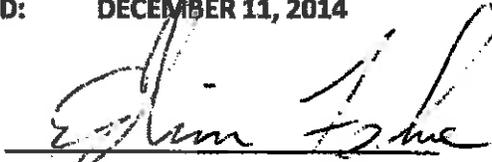
IN FAVOR: MR. S. KIM, MR. K. KIM, MR. FEHRE, MR. KILMARTIN, MS. ROSENBERG and MR. SURACE

OPPOSED: MR. DUFFY

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DATE APPLICATION APPROVED: NOVEMBER 13, 2014

DATE RESOLUTION APPROVED: DECEMBER 11, 2014



**EDWIN FEHRE, CHAIRMAN
PLANNING BOARD**

Attest:



**CATHY SCANCARELLA
PLANNING BOARD SECRETARY**

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ORIGINAL

PLANNING BOARD

BOROUGH OF ENGLEWOOD CLIFFS

**IN THE MATTER OF THE APPLICATION OF ALL-PRO :
MOTORS, LLC / MICHAEL SAPORITO FOR A SIGN : MEMORIALIZATION RESOLUTION
VARIANCE RELATING TO LOT 18, BLOCK 411, : APPLICATION NO. 240K
380 SYLVAN AVENUE :**

WHEREAS, ALL-PRO MOTORS, LLC / MICHAEL SAPORITO applied on or about July 24, 2014 to the Planning Board of the Borough of Englewood Cliffs for a sign variance install three (3) building mounted signs, in the "B-2 Limited Business" district; and

WHEREAS, a public hearing was conducted on November 13, 2014, 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 Nicholas G. Sekas, Esq., of The Sekas Law Group, LLC, 530 Sylvan Avenue, Englewood Cliffs, NJ 07024; and

WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were received as follows:

- Denial letter of Paul Renaud, Construction/Zoning Official, dated July 21, 2014, for reasons stated therein;
- Letter of Joseph Iannaconi, Jr., Tax Collector/Treasurer dated August 12, 2014, certifying payment of taxes through the 3rd quarter, 2014; and
- Review letter of the Board's consulting engineer, Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Phillips Avenue, South Hackensack, NJ 07606, dated June 27, 2014 and August 11, 2014; and

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WHEREAS, admitted into evidence were the following photographic exhibits, taken by William R. Vogt, Jr., P.E. of L2A Land Design, LLC, 60 Grand Avenue, Englewood, NJ 07631:

Exhibit A-1 – Board mounted photographs of Mahwah dealership signs 319 Route 17 North;

Exhibit A-3 – Mahwah dealership – Wall sign, daytime and nighttime comparison; and

Exhibit A-4 – Closeup of Mahwah dealership’s script “Cadillac” entry sign; and

WHEREAS, marked as **Exhibit A-2** was a rendering representing the proposed signage; and

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

- Planning Board Resolution dated May 8, 2014, memorializing site plan approval to for two (2) ground signs;
- Planning Board Resolution dated October 18, 2012 (Application No. C-007), memorializing site plan approval to applicant on March 25, 2014 to expand dealership
- Four LED Foot-candle Calculation Sheets and Sign Specification Sketches prepared by Curtis Williams of Pattison Sign Group, Inc., 410 North Center Bluff Road, Suite 101, Knoxville, Tennessee 37923; and
- Sheet A-3 entitled “Exterior Elevations”, of architectural plans prepared by Dennis R. Connell, R.A., 715 North New Street, Bethlehem, PA 18018, dated July 12, 2013; and

WHEREAS, testimony in support of the application was given by applicant’s site engineer, William R. Vogt, Jr., P.E. of L2A Land Design, LLC, 60 Grand Avenue, Englewood, NJ 07631; and Mary O’ Shea, 12 Irving Avenue and Joseph Cloffi, 30 Sylvan Avenue questioned the witnesses and 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:

1. Applicant car dealership received site plan approval in March of this year to expand the dealership after its acquisition by new owners. Since automobile dealerships are prohibited in

the B-2 Limited Business District, it required a use variance under N.J.S.A. 40:55D-70d(2). Applicant also sought to extend its showroom into the minimum front yard setback and to put parking into that front yard, all of which was approved in March, justified as being mandated by Cadillac in its efforts to modernize its dealerships, both aesthetically and functionally. The basic functional improvement was in the service department, both in drop-off conveniences and in waiting areas. Also approved were site improvements for drainage, retaining wall, guide rails, enclosure for used tire storage and trash, pavement repair, striping and fencing as per the Board Resolution, dated May 8, 2014. Applicant now requests variances for wall-mounted signage, which had been deferred in the previous application. Two (2) ground signs were previously approved by the Board in January 2013, memorialized February 14, 2013.

2. Block 411, Lot 18 (the "Site") is 121,996 square feet (sf) in area and is located on the westerly side of Sylvan Avenue, approximately mid-block between Charlotte Place and Sherwood Avenue.

3. The proposed signage requires the following variances:

- i. Sign Illumination: Code §19-13.e does not permit illuminated signs. Illuminated signs are proposed.
- ii. Maximum Size of Signs: Code §19-16 allows signs attached to a building be a maximum of 32 sf whereas three (3) signs are proposed totaling 170.59 sf of sign area (one "Cadillac" sign @ 81.23 sf, one "Certified Service" sign @ 33.8 sf, and one "Cadillac" sign @ 55.56 sf).
- iii. Maximum Number of Signs: Code §19-16 permits only one sign per building whereas three (3) signs are proposed.

4. Advertising signs are permitted in the B-2 Zone District, but not by the Chapter XXX "Zoning". Rather, they are permitted by Chapter XIX, "Signs, Billboards and Outdoor Advertising". This is significant because the criteria relating to signs are all set forth in Chapter XIX, as specified above.

5. Because the foregoing criteria are not in the Zoning Ordinance (Chapter XXX) but rather in a separate Chapter of the Borough Code controlling commercial signage (Chapter XIX), different standards apply to allow a departure from the criteria set forth therein. A departure from zoning criteria would require a dimensional or bulk "variance" under N.J.S.A. 40:55D-70c with specific positive and negative criteria to evaluate the variance request. A design standard,

such as those above for commercial signs in the B-2 Zone, can be waived on any reasonable basis and without specific statutory criteria. See Wawa Food Market v. Planning Bd., 227 N.J. Super 29, 36 (App. Div. 1988).

6. The Board concludes that the topography of the site, combined with the geometry of Sylvan Avenue in the vicinity of the site, and the large size and functional differences of the building, justify the outsize dimensions of the sign-face areas, the number of signs and illumination of the signs. Parenthetically, these factors would meet the affirmative criteria of N.J.S.A. 40:55D-70c(1) if variances were required.

7. It is also noted that none of these signs would be observable from the nearest homes, which are far removed to the northwest (Rock Road) and southwest (Ross Avenue).

8. As with the previous building expansion and previously approved signage, applicant's representatives testified that it has few, if any, design alternatives - all signage design and placement being mandated by Cadillac. Applicant did have discretion to remove the sign over the canopy, and agreed to do so.

9. The Board's only concern was the degree of illuminated brightness. Mr. Vogt offered that it would be no brighter than the existing pylon sign, and the Board found that acceptable. It was also stipulated that illuminated signage would be on automatic timers and would be turned off on or about 11:00 p.m.

CONDITIONS SPECIFIC TO THE APPLICATION

- A. The "Cadillac" canopy sign shall be removed, leaving only two wall signs.
- B. All illuminated signage shall be no brighter than the existing pylon sign.
- C. Illuminated signage shall be on automatic timers and turned off on or about 11:00 p.m.

GENERAL CONDITIONS

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

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07801-7407

E. The action of the Planning Board in approving this application shall not relieve the applicant 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. DUFFY

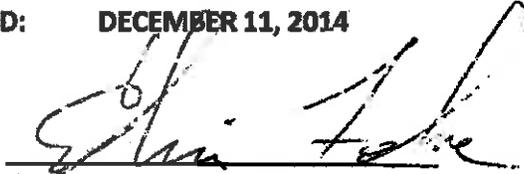
SECONDED BY: MR. KILMARTIN

IN FAVOR: MR. DUFFY, MR. KILMARTIN, MR. FEHRE, MR. S. KIM, MR. K. KIM and MR. SURACE

OPPOSED: NONE

DATE APPLICATION APPROVED: NOVEMBER 13, 2014

DATE RESOLUTION APPROVED: DECEMBER 11, 2014



**EDWIN FEHRE, CHAIRMAN
PLANNING BOARD**

Attest:



**CATHY SCANCARELLA
PLANNING BOARD SECRETARY**

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ORIGINAL

PLANNING BOARD

BOROUGH OF ENGLEWOOD CLIFFS

**IN THE MATTER OF THE APPLICATION OF NEW YORK :
SMSA LIMITED PARTNERSHIP, d/b/a VERIZON WIRELESS : MEMORIALIZATION RESOLUTION
FOR SITE PLAN APPROVAL, CONDITIONAL USE WITH : APPLICATION NO. 235K
VARIANCE, RELATING TO LOT 9 IN BLOCK 806 :
580 SYLVAN AVENUE :**

WHEREAS, SMSA LIMITED PARTNERSHIP, d/b/a VERIZON WIRELESS applied on or about July 8, 2014 to the Planning Board of the Borough of Englewood Cliffs for site plan and conditional use approval, with a height variance to install one telecommunications antenna for use as a Small Network Node (SNN) for high data usage areas atop the existing rooftop bulkhead structure; together with two proposed equipment cabinets, 55 inches high, to be mounted to the bulkhead wall; in the B-2 Limited Business Zone; and

WHEREAS, public hearings were conducted on September 11, 2014 and November 13, 2014, 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, Gregory D. Meese, Esq., of Price Meese, Shulman & D'Arminio, P.C., 50 Tice Boulevard, Woodcliff Lake, NJ 07677, represented the applicant; and

WHEREAS, interdepartmental communication and advisory reports of Municipal Departments of agencies were as follows:

- Letter of Joseph Iannaconi, Jr., Tax Collector/Treasurer dated July 17, 2014, certifying payment of taxes through the 2nd quarter, 2014; and
- Engineering review letters from the Board's consulting engineer Bernard N. Mirandi, P.E., of Boswell McClave Engineering, 330 Philips Avenue, South

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Hackensack, NJ 07606 dated August 7, 2014, September 9, 2014 and October 8, 2014; and

- Denial of Application letter of Paul Renaud, Zoning Officer, dated June 3, 2014, denying the zoning permit application for reasons stated therein; and
- Letter from Fire Official, Joseph Cardullo, to Bernard N. Mirandi, P.E., dated August 26, 2014; and

WHEREAS, admitted into evidence were the following documentary exhibits:

Exhibit A-1 – Aerial view of the subject property;

Exhibit A-2 – Verizon Wireless FCC Licensed Frequency Bands-New Jersey prepared by Glenn Pierson, Principal of PierCon Solutions, 63 Beaver Brook Road, Lincoln Park, NJ 07035, dated January 13, 2014;

Exhibit A-3 –Exhibit A – Existing Verizon Wireless, 700 LTE/Cellular, Coverage, prepared by Glenn Pierson, dated August 12, 2014;

Exhibit A-4 – Exhibit B – Existing Verizon Wireless, PCS/AWS, Coverage, prepared by Glenn Pierson, dated August 12, 2014;

Exhibit A-5 – LTE 700 Capacity Chart for Englewood Cliffs 3 Sector 3 (Gamma) 350 Degrees, prepared by Glenn Pierson, dated August 11, 2014;

Exhibit A-6 – LTE 700 Capacity Chart for Englewood Cliffs 4 Sector 2 (Beta) 210 Degrees, prepared by Glenn Pierson, dated August 11, 2014;

Exhibit A-7 – Report of the New Jersey Department of Transportation Daily Volume from 5/10/2010 through 5/13/2010, created on July 12, 2010;

Exhibit A-8 – Exhibit C – Existing Verizon Wireless, AWS/LTE, Coverage, prepared by Glenn Pierson, dated August 12, 2014;

Exhibit A-9 – Exhibit D – Existing and Proposed Verizon Wireless, AWS LTE Coverage, prepared by Glenn Pierson, dated August 12, 2014;

Exhibit A-10 – An Analysis of the Predicted Radiofrequency Environment in the Vicinity of a Proposed Verizon Wireless, Wireless Communications Facility, prepared by Glenn Pierson, dated August 11, 2014;

Exhibit A-11 – Photo simulations board prepared by David Karlebach, PP, PC, 38 E. Ridgewood Avenue, # 396, Ridgewood, NJ 07450, dated April 17, 2014; and

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

- **Application, dated July 8, 2014;**
- **Letter of Emily Kinzinger, Project Scientist, Trileaf Environmental & Property Consultants, 10845 Olive Boulevard, Suite 260, Saint Louis Missouri, 63141, to Edwin Fehre, Chairman, Englewood Cliffs Planning Board, dated August 4, 2014, with attachments appended thereto;**
- **Engineering Plans prepared by Christopher Cirrotti, P.E., Dewberry Engineers, Inc., 600 Parsippany Road, Suite 301, Parsippany, NJ 07054, dated June 5, 2014 with latest revision July 2, 2014, consisting of seven sheets, as follows:**
 - **Drawing No. T-1 – Title Sheet;**
 - **Drawing No. Z-1 – Site Plan and Notes;**
 - **Drawing No. Z-2 – Zoning Maps & Zoning Schedule;**
 - **Drawing No. Z-3 – Proposes Roof and Equipment Plans;**
 - **Drawing No. Z-4 – West Elevation;**
 - **Drawing No. Z-5 – Construction Details I; and**
 - **Drawing No. Z-6 – Construction Details II;**
- **Structural Analysis Report and Design Calculation For a Wireless Telecommunications Facility, prepared by Jiang Yu, P.E., of Dewberry Engineers, Inc., dated April 29, 2014; and**
- **Revised Title Certification prepared by Gibraltar Title Agency, Inc., 39 Hudson Street, Hackensack, NJ 07601, dated March 18, 2014; and**

WHEREAS, testimony in support of the application was given by Mario Iannelli, P.E., of Dewberry Engineers, Inc.; Glenn Pierson, Principal of PierCon Solutions, 63 Beaver Brook Road, Lincoln Park, NJ; William F. Masters, Jr., P.P., 19 Ironwood Drive, Morris Plains, NJ 07950; and the following persons questioned the witnesses: Mary O'Shea, 12 Irving Avenue and Thomas Manolio, 603 Floyd Street; and

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

**STATES NUSSMAN RAPONE
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1. On September 11, 2014, a motion to approve the within application to install a roof-top antenna was voted four in favor and three against. Because the application was for a conditional use variance under N.J.S.A. 40:55D-70d(3), an affirmative vote of at least five members was required, and the motion was defeated.

2. On November 13, 2014, the Board considered an amended application, repositioning the proposed antenna from the southwesterly side to the easterly side of the bulkhead wall. It is now proposed to be placed within a stealth fiberglass chimney. Further, two (2) proposed equipment cabinets, 55 inches high, are now proposed to be repositioned, mounted to the easterly side of the bulkhead wall.

3. The Board concludes that the doctrine of *res judicata* should not operate to bar the amended application for three reasons: First, as a default denial in which the Board majority approved of the original application, every consideration should be given allow the applicant to amend the application; second, that the revisions to the development plan are intended to address the original opposition; and three, as the development plan was to place an antenna on the roof of an existing building, it was small in scope and thus any repositioning should be considered a major change. Under the doctrine of *res judicata*, if the same parties or their privies do seek the same relief in the same factual setting, the case may be dismissed on the ground that it has already been decided. In *Bressman v. Gash*, 131 N.J. 517, 526 (1993), quoting Restatement (Second) of Judgments, §83 comment b (1982), the court wrote that the application of the doctrine rests on policy considerations such as "finality and repose; prevention of needless litigation; avoidance of duplication; reduction of unnecessary burdens of time and expense; elimination of conflicts, confusion and uncertainty; and basic fairness." *Id.* at 527. Basic fairness is motivating the Board decision to allow the amended application to be considered.

4. The site, Block 806, Lot 9 (the "Site") is approximately 1.865 acres in area and is located on the west side of Sylvan Avenue approximately 700 ft. north of Demarest Avenue. It contains an existing four-story office building and is located in the B-2 Zone District.

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5. Applicant is proposing to install one (1) telecommunication antenna for use as a Small Network Node (SNN) for high data usage areas atop the existing rooftop bulkhead structure.

6. Wireless communication facilities are not listed as a permitted use in Section 30-21.4b. Instead, they are listed as a "conditional use", as per Section 30-8.e.2(a). The following condition is exceeded, thereby requirement a "conditional use" variance under *N.J.S.A. 40:55D-70d(3)*: The maximum permitted building height in the B-2 Zone is 35 feet (Schedule A – Schedule of Regulations). Applicant is requesting a variance and proposing a height to 47 feet Above Curb Level (ACL). The top of the proposed antenna to be approximately 13 feet above the roof and approximately 5 feet above the existing bulkhead at 47 feet ACL.

7. Although Board engineer Bernard N. Mirandi, P.E. states in his review letter of October 8, 2014 that the repositioned telecommunications equipment also violate the certain setback criteria¹, the Board has determined that those provisions apply to new towers, rather than to rooftop antennas, such as proposed by the applicant; thus, variances are not required.

8. As revised and amended, the equipment cabinets have been moved out of the sight line of any residential property. Applicant's additional effort to conceal the repositioned antenna within a stealth fiberglass chimney is deemed to be unnecessary. The repositioning of the equipment alone is satisfactory.

9. The Board finds that the Applicant has an FCC license and that the issuance of the FCC license demonstrates that the public good is served by the proposal.

10. Applicant has capacity demands on its wireless network in the area of the site and the subject antenna facility will alleviate the capacity demands and improve the Applicants wireless communications network -- not just in the immediate area served by the proposed network node, but by alleviating the demand on the surrounding sites as well.

¹ A setback of 259 ft. +/- where 500 ft. is the required minimum; and a setback of 64 ft. +/- where 73 ft. is the minimum required.

11. The Board has determined that there will be no substantial negative impact should the application be approved because it involves a single antenna and two cabinets located on the roof of an existing office building. The antenna is proposed to be no taller than an existing chimney on the roof and the visual change is *de minimis*. There will also be no traffic, noise, vibration or other noxious influences from the facility.

12. The Board has determined that the site remains suitable for the antenna facility notwithstanding the need for the height variances. Moreover, even if the applicant was seeking a use variance, the Board finds that under the balancing test of *Sica v. Board of Adjustment of Tp. of Wall* (1) the provision of improved, state-of-the-art telecommunications services is in the public interest and is a significant public benefit, (2) the only possible negative impact from such a facility is a visual impact, (3) the applicant has relocated the equipment so that it will not be visible from the residential properties and that adequately addresses any perceived visual impact, and (4) the benefits to granting the variance far outweigh the negative impact.

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:

A. Applicant shall comply with any requirements of the Borough Engineer, Mr. Mirandi, as reflected in his review letter of October 8, 2014, and as conditions may later dictate.

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

C. The action of the Planning Board in approving this application shall not relieve the applicant 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

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ATTORNEYS-AT-LAW
180 MOORE STREET
SUITE 306
HACKENBACK, N.J.
07601-7407

responsibility for design of the proposed improvement or for any damages that may be caused by this development.

MOTION BY: MR. DUFFY

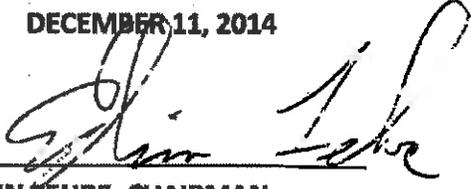
SECONDED BY: MR. SURACE

IN FAVOR: MR. DUFFY, MR. SURACE, MR. FEHRE, MR. KILMARTIN, MR. S. KIM and MR. K. KIM

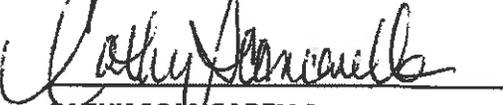
OPPOSED: NONE

DATE APPLICATION APPROVED: NOVEMBER 13, 2014

DATE RESOLUTION APPROVED: DECEMBER 11, 2014


EDWIN FEHRE, CHAIRMAN
PLANNING BOARD

Attest:


CATHY SCANCARELLA
PLANNING BOARD SECRETARY

ATES NUSSMAN RAFOVE
ELLIS & FARHI, LLP
ATTORNEYS-AT-LAW
190 MOORE STREET
SUITE 306
HACKENSACK, N.J.
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VIA FACSIMILE AND E-MAIL

December 9, 2014

Borough of Englewood Cliffs
482 Hudson Terrace
Englewood Cliffs, New Jersey 07632

Attention: Ms. Cathy Scancarella, Planning Board Secretary

Re: Plot Plan Review
'd' Variance Application
Haren Parikh
45 John Street
Block 507, Lot 21
Our File No. ECES-1356

Dear Ms. Scancarella:

Boswell McClave Engineering is in receipt of copies of the following document:

- a. Planning Board, Borough of Englewood Cliffs, Application Form dated October 24, 2014 inclusive of an Impact and Evaluation Statement [containing Exhibit A - The Construction/Zoning Official's Letter of Denial dated 10/15/14 and Exhibit B - Photograph (no photos were attached)] prepared by the Applicant's Attorney, Saverio V. Cereste.
- b. Engineering Plan Set (2 sheets) entitled, "45 John Street, Lot 21, Block 507 situated in the Borough of Englewood Cliffs, Bergen County, New Jersey," as prepared by Mark S. Martins, P.E. & L.S., of Mark Martins Engineering, LLC, dated 9/25/14, revised through 10/23/14 and consisting of the following drawings:
 - Sheet 1 of 2, Site Plan
 - Soil Erosion Plan/Details
- c. Architectural Plan Set (8 sheets) entitled, "Parikh Residence, 45 John Street, Englewood Cliffs, New Jersey," as prepared by Robert E. Zampolin, A.I.A. of Zampolin & Associates, dated 9-30-14 consisting of the following drawings:
 - Drawing No. T1: Cover Sheet
 - Drawing No. A1: Foundation Plan
 - Drawing No. A1.1: Optional Basement Floor Plan

- Drawing No. A2: First Floor Plan
- Drawing No. A3: Second Floor Plan
- Drawing No. A4: Roof Plan
- Drawing No. A5: Front & Right Side Elevations
- Drawing No. A6: Rear & Left Side Elevations

Based on our review of the above referenced information and recent site inspections, we offer the following comments:

General

1. The Applicant/Owner in this matter is:

Haren Parikh
499 Catherine Street
Fort Lee, New Jersey 07024

The Applicant should notify the Board of any change in the above mentioned information.

2. Block 507, Lot 21 (the "Site") is an interior lot located on the northerly side of John Street approximately 60 ft. east of Ostermeyer Way (formerly Floyd Court and Floyd Street – unimproved) and at the intersection of Castle Drive. The site is an empty lot with remnants of an asphalt driveway from a prior development. The Applicant seeks to construct a new 2 ½ story single family dwelling with a circular paver driveway, a covered (entry) porch, a paver patio in the rear yard and tiered Keystone retaining walls along the side and rear yards. Also proposed are lawn and driveway inlets connecting into a proposed Type 'A' inlet on John Street connecting into the Borough system by a proposed 72 ft. of 8 in. DIP storm piping.

Boswell McClave Engineering deems the application complete from an engineering perspective.

Land Use

3. The property is located, in the R-B Residential Single Family Zoning District. Single Family dwellings are considered a permitted use in this zoning district.

Variances and Waivers

4. According to the Construction/Zoning Official's Letter of Denial, the following variances are required and the Board should request comments from the Board Attorney regarding the requirements for variances or waivers for the following:

- a. Criteria for Tree Removal: "Violation of Ordinance 30-22.7. The proposed use of retaining walls on the rear and side yards exacerbate above violation."

We also note an additional variance:

- b. Maximum Building Height: In residential zones building height shall be thirty (30) feet (measured by taking the four (4) corner elevations and the four (4) midpoint

elevations and dividing them by eight (8) by utilizing the house box) of the existing grade or the finished grade, whichever is greater. In any event, the height of the measure from the mean curb level to the highest point of the building shall not be more than thirty-two (32) feet exclusive of chimneys. The proposed building height requires the following variances:

- 39.43 feet measured of the mean curb level versus the maximum allowable 32 feet. **A 7.43 ft. building height (d) variance is required.** The Zoning Table incorrectly states that 35 ft. is the maximum allowable. This shall be corrected.
- 33.22 ft. measured from the lower of the average existing or finished grade versus the maximum allowable 30 feet. **A 3.22 ft. building height variance is required.**

Stormwater Management

5. Site Plan Sheet 1 of 2 Note 18 states "Due to shallow rock conditions as noted in a report prepared by Johnson Soils Company dated September 16, 2014, seepage pits are not a viable option for this site. Note 6 conflicts with Note 18. Please address.
6. We are not in receipt of the above noted soils report. Please provide.
7. The Stormwater Control Ordinance requires stormwater to be fully attenuated on site. We do allow on-site system overflow connections into the Borough system.
8. The Applicant should present an alternate method of stormwater management control. Chambers, rain gardens, detention/retention, cisterns, etc. are viable options.
9. Should the Planning Board look favorably upon this application, drainage calculations in support of the proposed stormwater management improvements will be required.
10. Should the Planning Board look favorably upon this application, a soil log and percolation test shall be performed at the exact locations of the proposed stormwater management structures to substantiate the soils acceptance of such a system and to determine the elevation of groundwater and rock.
11. The installation of the stormwater management facility shall not be allowed to commence until this office has received and reviewed the aforementioned tests for acceptance. A note to this effect should be indicated on a revised plan.
12. The Applicant shall contact this office at least 48 hours prior to the installation of the seepage pits in order for this office to schedule the inspection of same. No Certificate of Approval shall be issued unless this office has inspected and accepted the drainage system. A note to this effect should be indicated on a revised plan.
13. No drainage from this property shall affect adjacent properties both during and subsequent to construction. Should any adjacent property be affected by runoff from this property, the Owner shall be responsible to remedy the matter at the owner's own cost.

14. A sump pump is indicated on the Architectural Plan A1 and A1.1. The Site Plan does not indicate a sump pump connection. Please address/clarify. The sump pump outlet shall be indicated.
15. Should the Planning Board look favorably upon this application, roof leader details shall be provided.

Additional Comments

16. The site plan shows the garage floor elevation to be the same as the driveway elevation right in front of the garage doors at 101.00. The site plan elevation of the basement floor is 93.00. The westerly dropped curb elevation is 92.6 ft.
17. The Impact and Evaluation Statement states that there is a basement that consists of 2,131 sf and a 646 sf. three (3) car garage. The optional basement area contains four (4) recreation rooms labeled A thru D, Mechanical Room, stair hall and a storage room. The Applicant shall provide testimony.
18. Soil Moving Calculations shall be provided.
19. The Borough does not have sanitary sewer in John Street. Site Plan proposes options. One proposed option is the use of a sanitary sewer ejector pump connecting into a system within the easterly property. Video inspection is required to be reviewed with the DPW Superintendent and Borough Engineer.
20. The second option proposes an alternate sanitary sewer lateral, 6" DIP approximately 300 ft. connecting into Castle Drive sanitary sewer system. It is noted that John Street was paved in the last few years. This option should consider requirements for NJDEP TWA permits for sewer extension. If this option is considered, an 8" DIP pipe is suggested in lieu of the 6" pipe.
21. In accordance with Section 30-7.15 of the Borough Code, any demolition activity of one or more structures and/or any new disturbance activity involving more than 5,000 square feet of area within the site, including the construction of one single-family dwelling or other project, the Applicant should contact the Bergen County Soil Conservation District (BCSCD) for their review of the application and obtain a Soil Erosion and Sediment Control Plan Certification.
22. Soil movement calculations should be provided. It appears that the northwest area of the site is being raised by 3 to 4 feet. The Applicant shall provide testimony to this grading as well as what is proposed for the northerly "Irregular Wood Fence" as it is located along the property line where the new retaining wall is proposed.
23. Soil erosion control measures shall be maintained throughout the course of construction.
24. According to the engineering drawings, ten (10) trees are indicated for removal and no shade trees are proposed. The Borough's Shade Tree and Environmental Commissions shall review/comment with regard to this plan. The review is required to ensure that any removal of selected trees and the preservation of trees to remain are in accordance with the Borough Code.

25. The Applicant is reminded the proposed rear yard patio cannot exceed six (6) inches above the surrounding grade. In the event the patio elevation exceeds 6 inches above surrounding grade the building coverage calculations are affected.
26. As noted on the plans, the installation of the proposed improvements shall comply with any and all applicable Federal, State and local requirements, including Section 9-22 of the Borough of Englewood Cliffs Zoning Ordinance.
27. In the event the existing sanitary sewer connection is to be utilized, the Borough requires video inspections of the existing sanitary lines to ensure the adequacy of the line. As noted on the plans, the applicant shall provide a DVD of the video inspection of the sanitary line to the Superintendent of Public Works prior to Certificate of Occupancy. Also, all connections shall be discussed with the DPW Superintendent for his concurrence. A note to this effect is annotated on the engineering drawing.
28. The plan indicates the applicant is responsible for the replacement of all curbing along the property frontage. All necessary curb replacement and damaged paving shall be installed to the satisfaction of the Superintendent of Public Works.
29. The Applicant shall undertake, at the time of foundation completion, a foundation location survey inclusive of setback dimensions and top of "Block" elevation which shall be submitted to the Borough for review. A note to this effect should be indicated on a revised plan.
30. The Applicant shall survey the Roof Ridge Elevation upon completion of framing. Compliance verification with the allowable roof ridge elevation is required prior to commencement of roof sheathing. A note to this effect should be indicated on a revised plan.
31. Building height certification shall be provided by a licensed Land Surveyor in the State of New Jersey prior to the issuance of a Certificate of Occupancy. A note to this effect should be indicated on a revised plan.
32. An As-Built Survey shall be provided by a licensed Land Surveyor in the State of New Jersey prior to the issuance of a Certificate of Approval. A note to this effect should be indicated on a revised plan.
33. The engineering drawing depicts a 4 ft. high maximum Keystone retaining wall being proposed along the side and rear property lines. The Applicant shall be made aware of the following:
 - The Applicant must be made aware that all retaining walls greater than four feet (4 ft.) in exposed height require retaining wall stability calculations to be provided by a Professional Engineer licensed in the State of New Jersey, signed and sealed, for the Municipality's review and approval prior to construction. Global stability calculations are required as much of the wall is tiered.
 - All retaining walls greater than four feet (4 ft.) inclusive of tiered walls constructed on-site will require a certification of a licensed Professional Engineer that he/she has provided on-site inspection during the wall construction, proper methods were utilized in the construction, the wall has been constructed in accordance with the approved design

drawings, the wall has been properly stabilized and the wall will be adequate for the intended purpose. Inspecting engineers must also certify appropriate batter, heights and locations have been respected pursuant to the approved design drawings. Copies of these certifications are to be forwarded to the Municipal Engineer.

32. The Applicant shall review the proposed location of the generator with the Construction Code Official.
33. Any other issues the Planning Board deems necessary.

Thank you for your kind attention to this matter. Should you have any questions or require anything further, please do not hesitate to contact me.

Very truly yours,

BCSWELL McCLAVE ENGINEERING



Bernard N. Mirandi, P.E.

BNM/amg

cc: Paul Renaud
Environmental Commission
Shade Tree Commission
Mark Neville
Ed Fehre, via e-mail
Michael B. Kates, Esq., via fax & e-mail
Haren Parikh
Mark Martins Engineering, LLC.
Zampolin & Associates
Saverio V. Cereste, Esq., via e-mail
John Engiese

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BOROUGH OF ENGLEWOOD CLIFFS

482 HUDSON TERRACE, ENGLEWOOD CLIFFS, NJ. 07632



PLANNING/ZONNING COMMISSION

FAX (201) 227-7775

December 12, 2014

Englewood Cliffs Planning Board Annual Meeting Notice Schedule Year 2015

Please take notice that the Regular Meeting day for the Englewood Cliffs Planning Board for the year 2015 is the second Thursday of the month at 7:30 PM at the Borough Hall, 10 Kahn Terrace. The dates are:

January	8 – Thursday
February	12 – Thursday
March	12 – Thursday
April	9 – Thursday
May	14 – Thursday
June	11 – Thursday
July	9 – Thursday
August	13 – Thursday
September	10 – Thursday
October	8 – Thursday
November	12 – Thursday
December	10 – Thursday

Caterina Scancarella
Planning Board Secretary

pc: Bulletin Board – **December 12, 2014**
The Record – emailed **December 12, 2014**
Start Ledger – emailed **December 12, 2014**