

Regular Public Meeting of the
Englewood Cliffs Planning Board
Minutes
June 27, 2013

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

Present at Roll Call:

Mr. Fehre
Mr. Dooly
Mr. Chinman
Mr. Kilmartin
Mr. Trovato
Mr. Nikow
Mr. Surace, 3rd Alternate

Absent:

Ms. Rosenberg
Mayor Parisi
Councilwoman Simon
Mr. Kim, 1st Alternate
Mr. Duffy, 2nd Alternate

Also Present:

Bernie Mirandi, PE, of Boswell Engineering, the Borough's consulting engineer
Eric Keller, PE, of Omland Engineering, the Borough's consulting engineer
Michael B. 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 and posting of notice on the municipal building bulletin board at 482 Hudson Terrace.

Flag Salute led by: Mr. Trovato

The minutes of June 19, 2013 meeting motioned by Mr. Chinman seconded by Mr. Dooly approved by voice vote.

Old Business:

Application #222K – Site Plan with Bulk Variance Approval
Bank of New Jersey - 744 Palisade Ave. Block 512 - Lot 4
Approved - Resolution

Mr. Kates, Board Attorney, read the resolution which is incorporated herein as though fully stated and made a part hereof. Mr. Trovato made a motion to adopt this resolution, seconded by Mr. Nikow. The Chairman asked for a roll-call vote; Mr. Kates stated that these members were eligible to vote: E. Fehre, R. Kilmartin, M. Trovato, A. Nikow they each voted to adopt this Resolution; it was unanimous.

Application #221K – Site Plan w/Variations
2 Fifth Street Associates, LLC - 2 Fifth St. - Block 201 - Lot 1

Mr. Kates announced that this application is a zoning application so Mr. Nikow is disqualified for this application. There will be six members certifying and ready to vote on the application.

Mr. Profita stated that the board requested the applicant to look into the size of the lot the building is sitting on in doing so he has brought back Mr. Luglio to testify. Mr. Profita questioned Mr. Luglio on the parking requirements for the Wildflower's building and 2 Fifth St. Mr. Profita asked Mr. Luglio what type of work that was being done at Wildflowers. Mr. Luglio stated that they make flower arrangements to sell and ship from there. He stated that it is not really a retail type that you buy roses etc. Mr. Luglio agreed. Mr. Profita questioned Mr. Luglio on what type of use Wildflowers is in his opinion. Mr. Luglio stated that he feels it is a warehouse and distribution type use. Mr. Profita stated that parking for this is one space for every 2 employees but not less than one space per 1000 sq.feet. Mr. Luglio agreed to this. Mr. Luglio stated the requirement based on square footage would be 3 spaces but as per warehouse distribution they would need 2 spaced.

Mr. Trovato questioned that once you determined this to be a warehouse is there a loading dock required. Mr. Luglio stated no based on the size of it. They only have deliveries two times a week for product coming in and does not need a loading dock.

Mr. Kates questioned the square footage of the building. Mr. Profita stated 2940 sq. feet.

Mr. Dooly questioned how many employees they have? Mr. Luglio stated two as of right now possibly up to three at peak of business.

Mr. Torvato questioned that the applicant purchased the Wildflowers lot and so they have a long term lease? Mr. Profita stated that the applicant's father purchased the lot not the applicant and that the lease is a month to month lease. Mr. Liu the owner of the Wildflowers lot came forward and stated that the lease is a month to month and has been this way for 5 years.

Mr. Kilmartin questioned the easement that is on the Wildflowers property of which will be ingress and egress. Mr. Profita stated that is correct and that two of the parking spaces for the application are located on the Wildflowers lot which will be part of the easement as well.

Mr. Kates questioned the parking spaces for both buildings. Mr. Profita stated that two of the Wildflowers four spots would be allocated to the childcare which will give them five spaces for the childcare with a total of 9 spaces between the two lots.

Mr. Fehre questioned what the future of the Wildflowers building might be. Mr. Liu was not sure he is waiting for the new business plan and also the renter has been there for a long time. Mr. Fehre stated that parking has been an issue and he notices that these are other lots with excess spaces, Mr. Liu stated that his building next door 2500 Lemoine Avenue, Fort Lee has been having people from Fifth St. parking in there and other people as well. He didn't have a problem with people parking in his lot and if people who were dropping off children park there as well.

Mr. Kilmartin stated that there is nothing in writing stating that the parking in that building can be used by the site even in the future.

Mr. Dooly stated to Mr. Liu that in the future you could sell the building and that the board cannot assume anything.

Mr. Kilmartin stated that you have selectively limited the Wildflowers parking when you change tenants in the building to retail and have taken the parking away are you going to say no to that tenant. Mr. Kilmartin questioned Mr. Profita on the parking arrangements between the Wildflower site and the childcare lot that you are selectively limiting the Wildflowers parking and when a new tenant comes in and wants to be a retail business are we going to say no to that since the parking is not there. Mr. Profita asked for a moment to discuss with his client.

Mr. Profita came back to say that they will stipulate that if there is a change of use with the Wildflower site that they will come before the Board to obtain site plan approval and any variances that would be required.

Mr. Kilmartin questioned on how they were categorizing the use now. Mr. Profita stated flower distribution warehouse. The second floor is used only for storage while the first

floor is where they make the arrangements. Mr. Chinman questioned if there was a warehouse code for parking. Mr. Kates stated yes. Mr. Kilmartin questioned what the CO for Wildflowers states.

Mr. Liu could not answer since the tenant has been in there before he purchased the property. Mr. Profita questioned Mr. Liu on the parking at 2500 Lemoine Avenue with the exhibit A-14 which shows the number of spaces and times used. Mr. Kates questioned that what is the purpose if you are not pledging some spaces for the child care site. Mr. Profita stated that it is not required by state law to provide any parking spaces but the ownership is sensitive to the fact that parking will be beneficial. He also stated that Mr. Liu has buildings at 120 Van Nostrand, 44 Sylvan Ave as well that have excess parking. Mr. Profita stated that what they are trying to demonstrate is that there is parking at all of his buildings that are available and that Mr. Liu is willing to make available even though they are not required since it is exempt.

Mr. Fehre questioned that there is state statute that parking is not required for this site. Mr. Profita stated that the state wants these type of sites and parking does not have to be provided. They are exempt from use restrictions in a nonresidential zone and exempt from density requirements. Mr. Fehre stated that it is a 5th St. property and would gain access from the residential street. Mr. Profita feels it is not a disruption to 5th St. since 2500 Lemoine is in Fort Lee and access is also from 5th St.

Mr. Kates stated that his preliminary research on this is that you don't have to get formal approval from Fort Lee if this is accessory to the site but you would have to expand your notice. To use that site as an accessory you would have to give formal notice to the 200' lots which have not been done for this application. Mr. Kates stated that you are asking the board to trust the existing conditions of parking but the problem is that existing conditions can change. Mr. Kates stated that the applicant has already stated that they would go in front of the board for changes with the Wildflower use which he felt was a positive step. Mr. Kates stated he doesn't know if the board wants to go on trusting the situation as it exists which is up to the board to decide.

Mr. Profita stated again that they are exempt from providing parking and yet they are providing 5 spaces.

Mr. Kates stated that Chairman Fehre mentioned that the site abuts a residential zone and yes on a nonresidential zone you are not required to provide parking, but the impact is on a residential zone. Mr. Profita disagreed with Mr. Kates statement.

Mr. Chinman questioned on why the flow of traffic could not be in on 5th St. and out on Sylvan Ave. Mr. Kilmartin also added a statement that he feels they should keep the flow of traffic one way on 5th St.

Mr. Luglio stated as he did in his previous testimony that when people are leaving from 5th St. they will have the option of going to the traffic light at Sylvan to proceed north or south with many more options whereas coming out onto Sylvan the flexibility is very limited.

A motion was made by Mr. Dooly, seconded by Mr. Surace to open to public for this application and carried unanimously by voice vote.

Mr. Chin of 5 Sixth Street strongly objected to the application because there will be 145 children being dropped off and picked up. He feels it will be too noisy and the traffic will be a problem. He also had major concerns about the water problems that have come since the new home has been constructed on 5th St. His other major concern is the run off of water.

Mr. Tom Dogalli of Block 202 Lot 3 of 5th St which is a vacant lot that he plans on developing in the future. He feels that the traffic will be an issue. The property will be devalued due to this construction. He questioned if the environmental report mentioned asbestos and how it will be removed.

Mr. Profita stated that there was a letter that was sent to the board and full reports were submitted to the borough.

Mr. Dogalli questioned if the reports mentioned the asbestos that is in the building. Chairman Fehre stated he didn't see any mention of that in the report. Mr. Dogalli stated that there is in the building. Chairman Fehre stated that it will have to be abated properly. Mr. Dogalli wanted it on the record that he is totally against this application.

Ms. Rebecca Wheaton a renter of 3 Sixth St. is against the application due to the noise of all the children and the traffic situation. She feels it is a unsafe location and is against the application. There is another school feeding off onto Washington Ave. from Fort Lee and the traffic from that and this new school would be an issue. The flow of traffic on Washington Ave. is horrible.

Ms. Jim Cockinos of 4 Seventh St. owns a lot on 5th St. that is vacant. He is opposed to the day care center he is strictly opposed to the traffic flow onto 5th St. It will create a lot of problems on the street. He feels that the drop off plan that has been stated is understated that parents are not going to just drop and go which will cause a major problem of traffic and parking in the area. He questioned the actual working of the facility on if it is just a day care or also Pre-K, Nursery school since 5 and 6 year olds will be attending. He feels that the application is being down played and mentioning everything since there was the changing of Wildflowers to a warehouse to reduce the parking requirements. He feels that there are to many variances being requested and he begged the board to avoid the traffic flow issue onto 5th St.

Mrs. Denise Angelos of 10 Irving Ave. works in the Englewood Cliffs School District and feels that there will be a lot of noise from the children at the school. She feels that if a retail type establishments is put there it will not be as noisy or busy since the people come and go at different times. She also stated that the drop off operation stated is not something that will run as stated. She also stated that she does not feel another day care in the area is necessary.

Mr. Andrew Nikow of 55 Elm St. in regards to parking requirements since you state that you are exempt due to state statute are you still exempt from ADA requirements. Mr. Profita stated that they are putting in ADA parking. Mr. Nikow questioned Mr. Profita in regards to the letter from the Police & Fire Chief in regard to accessibility for emergency service. Mr. Profita stated that it was all addressed by Mr. Luglio. Mr. Nikow stated that he feels that the testimony from the traffic expert Mr. Luglio discounted the letters from the Police & Fire Chief who feel it is not a safe situation.

Ms. Lauren Eastwood of 4 Willow Drive stated that she drove down 5th St. with her midsize vehicle and had to drive very slowly between the vehicles. She feels that fire trucks and other emergency vehicles will not make it down the street. She feels it is not a safe place for a school.

Ms. Mary O'Shea of 12 Irving Ave. the number of variances that are being requested are excessive. She stated that all commercial properties are not to exit onto residential areas which this application is exiting out onto 5th St. which is residential. She questioned Mr. Kates on if the Wildflowers building which they are stating is a warehouse is that permitted in a B-3 zone? Mr. Kates stated that he doesn't have that information available at that time. Mr. Fehre stated that he does not think warehouse is allowed in the B-3 zone. She stated that if the applicant is stating that Wildflowers is a warehouse then they will have to have a variance which she feels they do not have so they will have to obtain one. She felt that this application is an over building of the property. She stated that she read the environmental report and noticed that one of the check offs stated future site work as unknown yet when the application was submitted prior to the report and was known as a child care facility. She also stated that she is against the application and that it is an over development of the property It is a use variance and you don't have to give it. I urge the board to decline this application.

Mr. Kates questioned Mr. Profita in regards to the environmental report check that school child care box is not checked and that the future site work is checked as unknown.

Mr. Profita stated that the process started some time ago. Mr. Kates stated that it is dated April 16th. Mr. Kates then questioned if they have or have not gotent a license for the child care. Mr. Profita stated no it has to be licensed. Mr. Kates then stated that it is subject to obtaining the license. Mr. Profita agreed. Mr. Kates than questioned if the applicant wouldn't object to a condition that proof of non-soil contamination from the printing ink etc. be submitted or is it not necessary since the license will be predicted on that issue.

Mr. Profita stated the remediation outcome was from water and soil samples from this site and 2500 Lemoine Ave. site. and feel the issues have been addressed.

Mr. Kates questioned if he knew that the license you need to open the child care center takes into account the environmental factors or certification of that. He then asked for someone to come forward to verify this on the record.

Ms. Chaing came forward and stated that she believed no letter of further action is required. Mr. Kates stated that the report is not correct since child care is not checked. Mr. Profita stated that is because it started over a year ago. Mr. Kates then stated lets get it up to date then. Mr. Kates then questioned you get your license for the child care from the state does it require a remediation letter providing that the property is ok. Mr. Profita stated that an amended report will be submitted to cover this.

Mr. Steve Rubinsky of 654 Summit St. feels that child care centers are essential and feel that the issue with this is the parking and traffic flow. He feels that the information regarding the drop off and traffic pattern is very deceitful. He feels the number of staff that was mentioned is under what will really be needed. He feels that it is the right type of project just the wrong place.

A motion was made by Mr. Kilmartin, seconded by Mr. Surace to close the public for this application and carried unanimously by voice vote.

Mr. Kilmartin questioned Mr. Profita that in light of everything that has been heard would your client dedicate any parking to the adjoining site? He is concerned with the fact that they stated I own this property so they can park there. The site in front of the board needs more parking attached to it. Would your client be willing to do that as a condition to this application?

Mr. Profita stated he didn't understand what was being asked. Mr. Kilmartin stated that he believed that he owns the building in Fort Lee to the south of 2 Fifth. Mr. Profita stated his father owns the property. Mr. Kilmartin stated that his testimony was that there would be no problem with anyone who needed to park in the lot when dropping off children etc. and that it is ok with him and his father, but that is not dedicating those spaces to this use. So would he be able to procure that type of arrangement and commit to that to get more parking for this use. Mr. Profita questioned on 2500 Lemoine? Mr. Kilmartin stated where ever but that this is the most logical place. Mr. Profita stated that the answer is no since he is just willing to let them be used. Mr. Profita questioned Mr. Kilmartin if he meant that he wants them the spaces be attached to the building? Mr. Kilmartin stated yes, basically a lease agreement or whatever works so that it is stated that this facility has the right to use these number of spaces for parking on this property. Mr. Profita asked for a moment to discuss this with his client. Mr. Profita came back and stated that the owner of 2500 Lemoine agrees to have 10 spaces to be dedicated from 6am-10 and 3pm-6pm for the child care site for parking during drop off and pick up by parents.

Mr. Kilmartin then stated that you don't have adequate parking for your staff. Mr. Luglio stated that they have the parking within the 1000 feet for them to park and walk to the facility. Mr. Profita stated that there are 5 spaces on the site for staff and that they can car pool from the 44 Sylvan site.

Chairman Fehre opened up to the public again in regard to the final topics that were just discussed.

Mr. Steve Rubinsky of 654 Summit Street questioned the distance that the people would have to walk from 44 Sylvan if they were to park there. The exhibit shows 1000 feet but

what is the actual. Mr. Luglio answered about 1500 feet. Mr. Rubinsky stated that it has increased by 50%.

Mr. Kates stated that he understands that the sentiment on the board is to add the parking of the adjoining property by way of some commitment of easement or contract. The notice is complete and the board loses its ability to decide the case. The issue that is raised by adding the adjoining lot to supplement parking not merging the two lots is that property is the subject of the hearing including property not owned by the applicant but over which he has an easement for use as access to the development that notice should have included properties within 200 feet of that lot. Mr. Kates stated that this is his concern since notice was not given to the 200 feet of the adjoining property as well. Mr. Kates stated that in order for the board to vote on this with the parking agreement the additional notice must have been done which has not been done.

Mr. Profita stated that they noticed also for the Wildflower's property. Mr. Kates questioned if Block 7151 Lot 7 which is 2500 Lemoine Ave. Fort Lee was included in your notice. Mr. Profita stated no that lot was not. Mr. Kates stated that is the issue we face. Mr. Profita stated that they are not seeking site plan approval, easement, etc. on that lot so no notice is needed. Mr. Kates stated that notice is deficient because 200 feet from that lot was not noticed. Mr. Profita stated that some were but not all. Mr. Kates questioned Mr. Profita if he wanted to give correct notice and come back to the board. All that is required is to expand the notice list and come back to let anyone come in to speak if any. Mr. Profita requested some time to discuss with his client. Mr. Profita came back and stated that the timing to get the list of property owners and publish and everything else it makes the situation unworkable for the applicant. So they are withdrawing the offer to dedicate any spaces at 2500 Lemoine Ave. to the use of the child care facility.

Chairman Fehre asked for a motion to approve motion was made by Chairman Fehre with no second. Mr. Kates then stated that a motion to deny has to be made.

A motion to deny was made by Mr. Kilmartin, seconded by Mr. Chinman. This motion was approved by roll-call vote. 4 Ayes, (Mr. Kilmartin, Mr. Chinman, Mr. Dooly, and Mr. Fehre) 1 Abstention, (Mr. Trovato) 1 Nay (Mr. Surace).

Mr. Kates stated that there were 5 votes needed to approve and that since it ended with 4 ayes, 1 nay, and 1 abstention the application had been defeated.

Application #220K – Site Plan Approval w/Variations & Sign Approval
Ronmar Management, LLC
21 Sylvan Block 127 - Lot 20.01 & Block 132 - Lot 3

Chairman Fehre introduced the continuation of the 21 Sylvan application and questioned if it was an Early Learning Center or Child Care Center.

Mr. Cuccio asked Ms. Johnson to come forward and answer the question. Mr. Kates stated that Ms. Johnson was previously sworn in. He questioned her is it a child care or something else? Ms. Johnson stated that it is a child care center, but there is curriculum as well. It is not just a day care center where they are taking care of children only.

Mr. Kates stated that if it is not licensed as a child care center is it a preschool? Ms. Johnson stated yes it is a preschool with some kindergarten classes.

Chairman Fehre stated that he felt that most of the testimony was complete but asked Mr. Cuccio if there were anymore. Mr. Cuccio stated yes.

Mr. Cuccio stated that at the last meeting site plans were submitted recommendations were made and there have been some revisions made to the plan and that Mr. Kurus will explain them all.

Mr. Kurus described exhibit A-3 a colorized version of the site plan that was submitted. The major changes were that they relocated the dumpster which was previously located in

the center of the parking field to the northeasterly corner of the Bayview side as per the request of the board. All of the sidewalk frontage we terminated at the driveway entrance, next with respect to the retaining wall on the easterly side of the property line we have provided a guide rail on the topside of the retaining wall with the outside facing the adjoining parking lot for the property to the east. Also, they provided a different type of fencing along the Sylvan Ave. frontage. It will be a 4' white fence and provided additional access to get from the sidewalk to the southeasterly corner of the building. Amended zoning table to indicate that the proposed use is a conforming use as we are on a nonresidential zone and it is a proposed child learning center which is a permitted use. We addressed the concerns of the police and fire chief. First being to widen the curb cuts to 26' at the entrance and also provided the same on the exit driveway on Bayview Ave. They checked the ingress and egress of emergency vehicles with the use of exhibit A-4 and A-5. They verified to make sure that emergency trucks can make the turn into and out of the site. Exhibit A-5 is the garbage truck vehicle ingress and egress of the site on Bayview. The last comment of the police and fire chief was to provide a barricade along the Sylvan Ave. playground. Previously we had bollards that were placed 4' on center replaced it with a precast concrete jersey barriers which will be painted a brown color and we reconfigured the landscaping in front of that to soften the look. Those were the main changes to the site plan. There were some changes to the architectural plans to the building elevation.

Mr. Cuccio stated that a letter from Mr. Keller dated June 5, 2013 which was marked as exhibit BD-1 had some items which they responded with a letter from Neglia dated June 19, 2013 which was marked exhibit A-6. Mr. Cuccio stated that instead of him going through each item maybe Mr. Keller can go over the ones we didn't discuss previously.

Mr. Keller stated the first one is a combination of #3 and #6 parking area on lot 2 is shown in the rear of the building but what is on the south side of the building is not shown and that is our concern as to where it exists on the south side of their building and how do you construct that wall. I want to know what happens if you don't have enough room in the 3' or so from the face of the wall to the property line. What happens if you don't have enough room to fit all that in there and not impact their parking lot.

Mr. Kurus stated that the wall will have to be built in concrete and feels there is enough room to construct. The fall protection fencing would be placed on top of the concrete wall.

Mr. Keller questioned the size of the playground is it matched to the number of children using it any one time is that a minimum size for the playground?

Mr. Cuccio stated that the size of the playground is dictated by the specification of the demographics of the location and size of building the answer is yes. Mr. Keller stated that the size of the playground is fixed it cannot be reduced. Mr. Cuccio stated he didn't feel it can be reduced and if so maybe minimal.

Mr. Kurus understands Mr. Keller concern but feels 3' to construct a concrete wall is sufficient. Contractor may have to take extra precaution during construction but do not feel we have to reduce the playground by 3' to construct the wall.

Mr. Kurus stated that the wall will be 5.6' in height. Mr. Keller stated it is not just the height of the wall that goes into the design it is also the load of the parking area on lot 2 that has to go into the design. Mr. Keller stated being that the wall will be in excess of 4' you will require a building permit and the building dept. will be involved.

Mr. Chinman questioned if this will be seen from Sylvan Ave. Mr. Kurus stated no it will not. Mr. Chinman stated you are not going to have a concrete wall in the playground area you have to have some type of protection for the children. It has to be covered with something.

Mr. Keller questioned #17 the signage that there has been no change to all the signage that was proposed even though it was a topic of conversation. Also that the façade of the building on Sylvan has changed to look like the rear of the building. Mr. Kurus stated that the signage is the same on both sides of the building.

Chairman Fehre questioned if these signs are to be backlit and that the signs on the backside facing Irving Ave. residents there is no need for a sign at all back there. In the front you have a need for the sign not in the rear.

Mr. Cuccio stated that the signs are branded and are used all over for these facilities. Mr. Keller questioned the 123 ABC is part of the branding and added that also to the Sylvan Ave. side and how appropriate is it considering that some portion of that will be blocked by the fencing. Mr. Keller stated that you have the signs on the columns then sign on the peaks of the roofs and are looking for balance but is it necessary in the front since some to be blocked. Mr. Keller questioned the additional landscaping that was requested on the buffer area and places that was not submitted. Questioned if the applicant was willing to do. Mr. Cuccio stated yes they will.

Mr. Kilmartin stated that he sees progress in the request of taking the Sylvan Ave. side of the building and making it look like the rear entrance. He questioned if there was a way of making the rear of the building which fronts on Sylvan Ave. look as much like the front of the building as possible.

Mr. Alan Weitzman of 65 Harris Town Road, Glen Rock, NJ was sworn in by Mr. Kates. He described exhibit A-7 & A-8 the elevation drawings of the building. He stated that they can put soffit lighting on the building to shine on the sign instead of backlighting. There are other ways to light up the sign. The ABC, 123 will not be lit at all and are on both sides.

Chairman Fehre stated that you are exceeding the 32 sq. feet signage on the building by having the sign on the front rear and monument sign.

Mr. Keller asked what the sq. footage of each of the signage on the façade is? Mr. Kurus stated that the sign on top of the entrance is 35 sq. feet the blocks total 32 sq. feet for a total of 67 sq. feet. The monument sign is 21 sq. feet per side which is not permitted in the B-3 zone.

Mr. Keller stated that they are asking for 155 sq. feet of total signage. Mr. Kurus stated 137 sq. feet building signage and 42 sq. feet for the monument.

Chairman Fehre feels that it is a little excessive compared to the sign ordinance of 32 sq. feet.

Mr. Keller questioned the retaining wall along the parking lot and the residential property on Irving has a chain link fence on top of it. What would be the impact/benefit if the fence was 6' in height and was not chain link? Mr. Kurus stated the main purpose of the fence is for fall protection. There will be sizable planting along the wall which will outgrow the fence. Mr. Keller suggested to the board that the planting should be able to grow wide not tall and lean. He suggested something like a spruce or fur since they will stay full an spread not like a white pine.

Mr. Cuccio agreed to coordinate the landscaping plan with the Environmental and Shade Tree Commissions.

Mr. Cuccio stated that the Learning Center will be responsible for all the maintenance of the property i.e. snow removal, pruning of trees, etc.

Mr. Fehre questioned the keystone block wall and if there is going to be some drainage from your property onto the downhill residents.

Mr. Kurus stated no, the design of the drainage where there is a curb on the parking lot. There is a footing drain at the base of the keystone black wall. Also there is an area drain. They have left 10 feet from the bottom of the wall to the property line so that they can create somewhat of a swale in that area to an area drain towards the lower portion to collect that in the area drain and discharge to the catch basin in the middle of the road. There will be a drain to take water away and ease the tension of the wall.

A motion was made by Mr. Kilmartin, seconded by Mr. Chinman to open to public for this application and carried unanimously by voice vote.

Mrs. Denise Angelos of 10 Irving Ave stated that the character of the building does not fit with all the others on Sylvan Ave. She requested something to be done about the signage

and feels that they do not need the monument sign. There will be a lot of extra traffic to Irving Ave. which will cause extra burden on the property owners. Most offended by the physical look of the building.

Mr. Anthony Gusto of 5 Irving Ave had concerns of the wall that will be placed near his property, the fencing and the drainage of water.

Mrs. Mary O'Shea of 12 Irving Ave. had concerns about the signage on the front, back and the monument for a total of 176 sq. feet where only 32 sq. feet is allowed. It is totally excessive. She feels the sign is not going to draw clients. Signs should not be lighted. Totally against the monument sign. Also concerned about lighting on 12' poles in parking lot. Though lights were to be on building not on pole. Would like lights minimized on poles maybe lower for residents. Questioned the chain link fence in parking lot to be a solid fence so that the car lights do not shine into the residents home.

Mr. Cuccio stated they will not be doing that it will make it look like a fortress. Mrs. O'Shea questioned the fencing in the front of the property that there is an ordinance stating no fencing allowed in the front yard is that the same for commercial property.

Mr. Mohamad Manhood of 6 Irving Ave. had concerns of the traffic and parking on the street since his driveway is right across the street. He doesn't want any parking on Irving.

Mr. Keller mentioned that the police and fire chief has stated in the letter no parking on Irving Ave. & Sylvan.

Mr. Fehre stated that the board will recommend that they put up no stopping/standing signs on Irving and Sylvan to help with the flow of traffic.

Mr. Cuccio stated that he spoke with his clients and they agreed to remove the monument sign totally, but would like to do something on the parking lot side.

Mr. Kates questioned the use. You have a population of child care which does not require a variance in a residential zone, but you then have a population of preschool which is a different category which is educational preschool and is not the day care mode you are teaching those children.

Mr. Cuccio stated that they have preschool and child care.

Mr. Kates questioned the application stating it needed a D1 use variance.

Mr. Cuccio stated that the last time he spoke with Mr. Kates that he would amend it on the record. Mr. Kates stated that the applicants position is that everything coming in is the license of child care facility under that statute. The use variance that we are talking about only is a D6 height. Mr. Cuccio stated yes.

Mr. Kates stated that the board will act as zoning board and will require 5 votes and that there is only 5 members present that can vote tonight. Mr. Cuccio stated that they are going to roll the dice.

Mr. Tim O'Shea of 12 Irving Ave questioned if additional storm drains were going to be added as per the first meeting. Mr. Fehre responded that they are in agreement with that and will be down Irving Ave.

Mr. Joseph Cioffi of 30 Sylvan Ave. would love to see the property developed but does not think a child care facility is a good idea.

Ms. Lauren Eastwood of 4 Willow Drive questioned where the snow removal will go when plowed. Mr. Cuccio stated that it will be plowed up against the property and that they are aware that the town has strict rules in regard to pushing snow into the streets.

Mr. Joseph Cioffi of 30 Sylvan only concern was with the traffic flow on Irving, Sylvan and Bayview especially in the am and pm when the crossing guard is present.

Mrs. Mary O'Shea of 12 Irving Ave. questioned if there will be signs of no exit in the parking lot on the Irving Ave. entrance so that no one tries to exit out onto Irving Ave. Mr. Kurus stated yes there will be do not enter and one way signs in lot.

A motion was made by Mr. Chinman, seconded by Mr. Surace to close the public portion for this application and carried unanimously by voice vote.

Chairman Fehre asked for an agreement to remove all signage on the Irving Ave. residential side and leave the signage on the Sylvan Ave. side. He would like to see the removal of the 123 ABC and put a smaller sign on top of the parking lot side. Would like the monument sign total removed.

Mr. Cuccio agreed to nothing on the parking lot side (Irving Ave) and no monument with allowing 35 sq. feet of signage on the Sylvan Ave. side.

A motion to vote on the application was made by Mr. Chinman that the application be approved subject to the conditions that were mentioned, seconded by Mr. Kilmartin. This motion was approved by roll-call vote. 5 Ayes (Mr. Trovato, Mr. Kilmartin, Mr. Chinman, Mr. Fehre, and Mr. Surace), No Nays, 1 Abstention (Mr. Dooly).

A motion to open the meeting up to the public on any matter was made by Mr. Chinman, seconded by Mr. Surace, and carried unanimously by voice vote

No public comments.

A motion to close the public portion was made by Mr. Chinman, seconded by Mr, Kilmartin, and carried unanimously by voice vote.

A motion to closed and adjourn the meeting at 10:50 pm by Mr. Chinman, seconded by Mr. Surace was carried unanimously by voice vote.

Respectfully submitted

Caterina Scancarella
Planning Board Administrative Secretary