

PLANNING BOARD MINUTES  
NOVEMBER 15, 2006  
7:30 P.M.

The meeting was called to order by the Chairman, Lawrence Barrar at 7:31 P.M. The public statement was read by the Chairman, followed by the flag salute.

The substitute secretary Mr. Keenan took roll call:

Joyce Albrecht	Present	Jim Hannold	Present(7:50)	Nick D'Amico	Present
Richard Krause	Present	Robert Brown	Absent	Lawrence Barrar	Present
John Lattaney	Absent	John Wolf	Present	Arthur Loder	Absent
Joseph Conway	Absent	John DiBartolomeo	Absent	Chris Mecca	Absent
Sol. Michael Ward	Present	David Kreck, Eng.	Present	J. Keenan, Sub. Sec.	Present

The Chairman made note that he had presented a revised agenda to the members for the meeting.

Approval of Minutes:

Motion made by Councilman N. D'Amico, seconded by R. Krause to approve the minutes of the September 27, 2006 and the October 25, 2006 meetings with the corrections noted by the Chairman. All members voted aye, and those members not present at the respective meeting abstained.

Completeness Review:

Application by Robert Baker Center 48, L.P. et al at the Lion's Head Plaza was reviewed by the Board Engineer, D. Kreck. The Engineer went over page 4 of his letter to the board which detailed the submission requirements. He did explain item #4 regarding the use variance for the sign because of the height. The Board Solicitor M. Ward agreed with the sign requiring a use variance by statute. Motion was made by Councilman N. D'Amico, seconded by J. Wolf to deem the application complete. All members voted aye.

Old Business:

Public Hearing for the Housing Element and Fair Share Plan submitted by Mr. Harris the Borough COAH Planner. The Chairman did state he had read the report, and apologized for not reading the report the month prior. No one from the Public had any comments on the report. Since the Planner was not able to be present for this meeting a motion was made by J. Hannold, seconded by R. Krause to table taking any action until Mr. Harris can attend the meeting. All members voted aye.

Little Rays of Sunshine Daycare and the owner Mark D'Onofrio and his attorney Mr. Simeone were present. The owner was made aware that he was previously sworn in and was still under oath. Board Member J. Albrecht removed herself since she is a property owner within 200 feet. She sat in the public.

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The applicant's attorney explained the application had been revised for the addition to the building is now proposed to the rear of the building. The right side setback is non-compliant at 7.01 and is existing. This measurement is the very front portion of the right side. The proposed rear addition will be in line with the rear right setback which is indented and allows more space for the right side setback measuring a distance of 22 feet. The left side setback is in compliance at 35 feet. A rear setback variance is required since the requirement is 50 feet and the applicant is seeking a distance of 29.1 feet in the rear.

A parking variance for 8 existing spaces where 10 spaces is required. A perk test was supposedly done by the applicant and D. Kreck states as long as the findings are correct the drainage and runoff will be able to stay on site. There are no easements of record, and no utilities required on site for the new work.

The one ADA parking space is required but the unloading is a triangular area rather than the 8 foot wide rectangular space. D. Kreck stated the existing unloading space starts at over 8 feet wide at the top and narrows to 6 feet at the end and this space suits the unloading of a vehicle. The owner stated ADA clients use the space, and an ADA inspector stated it works well. D. Kreck stated the building originally was restricted on space and was built prior to ADA compliance requirements.

R. Krause asked if a fence would be better for the buffer. D. Kreck stated he preferred landscaping but thinks fence makes it look like a prison, all caged in. The owner stated he did not like the look of a fence for a security issue of not seeing the daycare area, as well as seeing out. The Board Solicitor stated testimony previously was given regarding noise and he hoped the applicant would address the noise. D. Kreck agreed fencing for the play area and the Albrecht lot which adjoins the site to the right.

The applicant stated the employee count is not changing. There are 6 adult employees on site. There are 8 spaces which accommodate the 6 employees. Most employees do usually park off street. 2 employees walk and 2 carpool. Mr. D'Onofrio stated 42-46 students are enrolled at this time. He stated 48 students is a realistic number. Furniture takes away space and the state will deduct the furniture space in their calculation. The new plan by the applicant's engineer dated 10/2006 will be marked as exhibit A-4, and the hand drawn floor plan by the owner will be labeled A-5.

Motion by J. Hannold, seconded by R. Krause to open the meeting to the public, with all members voting aye. Joyce Albrecht of 513 West Evesham Avenue came forth and was reminded she was still under oath from the previous meeting. J. Albrecht stated she was still confused on the number of students. The original State records were 40, and then the owner Mrs. D'Onofrio requested 30 students. J. Albrecht stated she was not sure why the daycare was expanding if by her records they can have 40 students. She stated she is the neighbor most affected by the application. She stated she feels a use variance should also be required since the existing use is not allowed in the residential district. She handed copies of the borough code to the Board and the applicant.

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The Board Solicitor Mr. Ward stated he read the record of the previous approval which granted a use variance for a daycare and did not agree with J. Albrecht. J. Albrecht stated she understood it was a non-conforming use. Mr. Ward stated it is not a non-conforming use and once it was given a use variance it was deemed allowed and permitted. Mr. Ward tried to explain to J. Albrecht the difference.

Motion by J. Hannold, seconded by J. Wolf to close the public session, with all the members voting aye.

Mr. D'Onofrio was questioned if he was withdrawing his previous plan of the side expansions. Mr. D'Onofrio confirmed he was withdrawing his previous application of the side expansions. Mr. D'Onofrio stated the play area will be in the rear and wrapping around the corner of the building to the west side, which will be one "L" shaped area. The applicant's attorney stated the application would be conforming if it was a residential area. It was also stated all the students do not come at the same time.

A question of west side parking was asked. The Board Engineer D. Kreck stated if there was parking on the west side of the building it would add to the impervious paved surface and create runoff and drainage issues. Applicant stated as a condition of approval he would have the employee's park on site to stop any parking issues on the public street. R. Krause stated he preferred the employee's park off site rather than on site to help the parents with drop off and pick up of the students.

Mr. D'Onofrio agreed to install fence and arborvitae bushes as a buffer. Councilman D'Amico questioned if there was air conditioning in the daycare. The applicant stated yes. J. Hannold questioned why arborvitae bushes were being used compared to another type. The Board Solicitor went into detail the benefits of availability of arborvitae bushes and they tolerate the Jersey soil conditions. He stated arborvitae bushes, upright juniper, or cypresses are all choices available that would work in this application.

It was confirmed the fence would be along the east side along the block top area. Also the arborvitae bushes would be along the rear and west side along the play area.

Motion made by J. Hannold for the variance for the east side of 22 feet and the rear of 29.1 feet, parking for 8 spaces where 10 is required, and conditioned upon the employees park on site, and a 6 foot opaque fence around the play area and the black top area, and plantings around the play area fence. There was a lack of a second motion and the motion died.

Motion made by R. Krause for the variance for the east side of 22 feet and the rear of 29.1 feet, parking for 8 spaces where 10 is required, and without the conditions of the employees park on site, and a 6 foot opaque fence around the play area, and plantings around the play area fence. There was a lack of a second motion and the motion died.

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Motion made by J. Hannold to reinstate his previous motion for the variance for the east side of 22 feet and the rear of 29.1 feet, parking for 8 spaces where 10 is required, and conditioned upon the employees park on site, and a 6 foot opaque fence around the play area and the black top area, and plantings around the play area fence. Councilman D'Amico seconded the motion. All members voted aye, with the exception of J. Wolf and R. Krause voting no. The motion passed 3 yes, 2 no.

#### New Business:

Mr. M. T. Martin was sworn in. The application was marked as A-1, and the survey was marked as A-2. Mr. Martin resides at 7 Morning Star Court, Sicklerville, NJ. Mr. Martin explained the single family dwelling was built on the vacant lot and has been sold, but the client requesting a front and rear deck. The front deck is 5 feet deep and 7.5 feet wide, and the rear deck is to be 10 feet deep and 20 feet wide. The lot is 50 feet wide and 100 feet deep which was approved by a prior subdivision application. The home conforms with the code regarding setbacks. When the home was 60% complete the client decided to buy and requested the decks. The decks would be about 3 feet above the grade. Both decks railed and made of timber TEC decking material. The house is completed at this time without the decks. The paver wall which was installed by request of the Construction Official in the rear of the home will remain in place. Steps will be centered on the rear of the deck. The front deck will be accessed by steps from the front door pad, not closer to the street but to the left side if viewed from the street. The rear deck has two sliding doors to gain access, and the front deck does not have direct access from the home. Motion made by J. Wolf, seconded by R. Krause to open the meeting to the public, all members voted aye.

Richard D. Jones of 115 Lakewood Avenue was sworn in. He lives to the rear of the applicant's home. He inquired to the distance of the rear deck to the rear property line. It was shown to him on the survey it was 20 feet from the deck to the rear property line. He was satisfied with this distance.

Anthony and Velma Price, husband and wife, of 504 East Madison Avenue, Lot 19 on the survey was sworn in, and has lived in his home since 1977. He complained of water run off issues since the new home was built. The Solicitor M. Ward addressed these issues as valid concerns but is not an item which this board has jurisdiction over. It is a construction office issue. It was confirmed that Mr. Martin has two lots created and can build two homes, one on each lot. Tonight's application is for the decks.

Odel Saxton of 505 East Madison Avenue was sworn in. He was concerned with the decks being too close to property lines and should put a concrete slab down rather than a deck. He is concerned with the next new home and another future deck. The Chairman inquired of the applicant the option of a slab.

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The applicant stated he did think of the slab prior but the buyer who is 70 years old, and her daughter of 50 years had asked for the decks. He also explained the next new home was sold to a Pastor and his mother. He also went into detail of his history with the neighborhood, growing up there. Mr. Martin stated with a slab the runoff and drainage would be worse. Board Member J. Albrecht stated the front deck should be a slab so it would at least blend with the front more. R.Krause stated he thought it best in the front not to have the deck. M. Martin stated the buyer wanted a front deck to sit in her rocking chair. R. Krause inquired to any roof structures being built? M.Martin stated no roofs were being built.

Motion made by J. Hannold to deny both decks. No second motion the motion died. Motion made by R. Krause to approve the rear deck with a 19.59 setback and the front deck as submitted. The motion was seconded by Councilman N. D'Amico. Roll call vote: N.D'Amico-Yes, R.Krause-Yes, L.Barrar-No, J.Hannold-No, J.Wolf-No, J.Albrecht-No. The motion was denied. Motion made by R. Krause to approve the rear deck as submitted with the setback at 19.59 feet, and to deny the front deck. Motion seconded by J. Albrecht. Roll call vote: N D'Amico-Yes, R.Krause-Yes, L.Barrar-No, J.Hannold-No, J. Wolf-Yes, J.Albrecht-Yes. Motion passed.

Review of Borough Ordinance 2006:17

The Mayor and Council had submitted to the Planning Board Ordinance 2006:17 for the Planning Board's review prior to the Public Hearing and final adoption. The Solicitor M.Ward stated this was to confirm if the ordinance is consistent with the Planning Board's recommendations. Basically it is going full circle but the Land Use Ordinance requires this process. M.Ward recommended the Board approve this and send it back to the Governing Body. Motion was made by J.Wolf, seconded by R. Krause to approve Ordinance 2006:17 and send it back to the Governing Body for further action. All members voted aye by roll call vote.

Adjourn:  
Motion made by N. D'Amico, seconded by J. Wolf to adjourn the meeting. All members voted aye by roll call vote.

Official copies should be requested through the Borough Clerks Office  
by completing an Open Public Records Act Request Form. Call the Clerk  
at (856)783-1520 for additional information.