

**MINUTES
OF
THE NEWARK BOARD OF ADJUSTMENT
REGULAR HEARING
May 11, 2017
COUNCIL CHAMBERS
7PM**

The meeting was called to order at 7:19 PM by the Chairman with the reading of the Open Public Meetings Act

Roll Call

Request for Withdrawals or Adjournments: 7:23 PM

Commissioners Present

Terence Baine
Katiria Cobian
Charles N. Hall
Wesley Jenkins
Julius Montford
Terry Pringle-Khalif
Rose Marie Ruivo
Charles Auffant, Chairman

Commissioners Absent

Barry Dobson

Also Present

Mark Barksdale, P.P, Director of Planning
Susan Brown, Zoning Officer
Angelo Cifelli Jr., Esq., Board Attorney
Gerard Haizel, P.P, AICP, Planning Consultant
Walford Enniss, Recording Secretary
Nana Jumah, Acting Board Secretary

Agenda Items

New Applications:

Application: ZBA-17-26
Premises: 28-50 McWhorter Street
Ward: East
Applicant: 28 McWhorter Street, LLC
To Permit: In the R5, Mid-rise Multifamily Residential District, proposed construction of new 12-story building consisting of one commercial retail space and 384 residential units. High Rise Multifamily buildings are not permitted. **Seeking a D¹ Use Variance and D⁵ Variance for insufficient lot area per dwelling. C Variances for exceeding max lot coverage, insufficient ground floor height, excessive lighting and insufficient garage lighting. Preliminary and Final Site Plan approval is required. The applicant's attorney Michael Oliveira, Esq., and counsel on behalf of the objectors Lisa Scorsilini, Esq. appeared before the Board. The Board adjourned this application to secure comments from the Department of Engineering. There were 66 objectors present. A motion was made by Commissioner Baine and seconded by Commissioner Hall to adjourn this application. This application is adjourned to August 10, 2017. Re-notice is not required and the statutory time period has been waived.**

Pending Applications:

Application: Res Judicata consideration
Premises: 28-50 McWhorter Street
Ward: East
Applicant: 28 McWhorter Street, LLC
To Permit: In the R5, Mid-Rise Multifamily Residential, proposed public surface parking lot to contain 162 spaces, control booth, enhanced lighting and landscaping at street frontages. Paid public surface parking lots are not permitted in the R-5 zone. Previously adjourned 3/16/2017 **Michael Oliveira, Esq., appeared before the Board. Michael Oliveira, Esq. requested an adjournment. A motion was made by Commissioner Montford and seconded by Commissioner Baine to adjourn this application. This application is adjourned to August 10, 2017. Re-notice is not required and the statutory time period has been waived.**

Application: ZBA-16-73
Premises: 28-50 McWhorter Street
Ward: East
Applicant: 28 McWhorter Street, LLC
To Permit: In the R5, Mid-Rise Multifamily Residential, proposed public surface parking lot to contain 162 spaces, control booth, enhanced lighting and landscaping at street frontages. Paid public surface parking lots are not permitted in the R-5 zone. **Seeking a D¹ Use Variance. Preliminary and Final Site Plan Approval is required.** Previously adjourned 3/16/2017 **Michael Oliveira, Esq., appeared before the Board. Michael Oliveira, Esq. requested an adjournment. A motion was made by Commissioner Montford and seconded by Commissioner Hall to adjourn this application. This application is adjourned to August 10, 2017. Re-notice is not required and the statutory time period has been waived.**

Communications: Chairman Charles Auffant re-ordered the agenda as follows

New Applications:

Application: ZBA-16-77
Premises: 461-467 Frelinghuysen Avenue
Ward: South
Applicant: Tanya Laughinghouse/ The Lennard Clinic
To Permit: In the I1, Light Industrial zone, proposed request to remove 5 year time limit and continuation of outpatient methadone maintenance clinic. BoA previously granted approval on Sept. 9, 2009 for 5 years which expired Sept. 24, 2014. Drug treatment facilities are permitted as conditional use in this zone. Project fails to meet conditional use requirements. **Seeking a D³ Variance; C Variances exceeding maximum lot coverage and insufficient off-street parking. Site Plan approval not required. Carl Marshall Esq., Maiysha Ware, Chief Officer of Operations, Tanya Laughinghouse, Chief Executive Officer, Daniel Roma, Architect, Richard Williams, The Lennard Clinic Board of Trustees member appeared before the Board. There was one objector and 45 supporters present. A motion was made by Commissioner Montford and seconded by Commissioner Jenkins to approve this application with conditions for an additional 5 year term. Motion carried 7-0.**

- Applicant agreed to comply with the comments outlined in the Planner's Staff Report dated May 4, 2017.
- Applicant agreed to combine at least one room, identified as room #131, and waiting room to increase waiting room's space
- Applicant agreed to work with neighboring businesses to monitor pedestrian traffic to avoid loitering
- Applicant agreed to a 5 year term

Application: ZBA-16-76
Premises: 701-721 S. 10th Street & 724-738 S. 11th Street
Ward: South
Applicant: 10th & 11th St Homes LLC
To Permit:

In the Kent/Brenner/Springfield Redevelopment Plan Area, proposed new construction of two 5-story buildings:

Building A: parking on ground floor and 42 residential units on 2nd through 5th floors

Building B: parking and one retail unit on ground floor and 56 residential units on 2nd through 5th floors

Seeking D Variance; C Variances insufficient rear yard setback and insufficient off-street parking. Preliminary and Final Site Plan approval is required. Fausto Simoes, Esq., Frederick Cooke, R.A, Architect, Maurice Brown, Engineer, Michael Pessolano, Principal Planner, Gerard Haizel, P.P, Planner on behalf of the City of Newark, Carole Dubois, Managing member of 10th & 11th St Homes LLC appeared before the Board. There was one objector present. A motion was made by Commissioner Pringle-Khalif and seconded by Commissioner Montford grant Preliminary Site Plan approval. Motion carried 7-0.

- Applicant agreed to comply with the directives from the Dept. of Engineering and the Div. of Water/Sewer Utilities.

- Applicant agreed to comply with the comments outlined in the Planner's Staff Report dated May 4, 2017.
- Applicant agreed to set the building back 3 feet on the 10th and 11th street frontages propose a daycare center instead of a retail space.
- Applicant agreed to have a no parking zone during the hours of operation of the daycare center
- Applicant agreed to indicate a drop off area for the daycare center on plans
- Applicant agreed to work in conjunction with the Office of Planning to devise an acceptable landscaping scheme on 10th and 11th street frontages to create a more pedestrian friendly sidewalk

Application: ZBA-17-12

Premises: 23 Downing Street

Ward: East

Applicant: Joana Teixeira

To Permit: In the R4, Fourth Residential District, demolition of the existing warehouse and construction of a new two family dwelling. This project does not conform to bulk regulations. **Seeking C Variances for insufficient lot size, insufficient rear yard setback , exceeding maximum lot coverage and insufficient lot area per dwelling. Site Plan approval not required. Fausto Simoes, Esq., and Daniel Roma, R.A, Architect appeared before the Board. There were no objectors present. A motion was made by Commissioner Ruivo and seconded by Commissioner Hall to approve this application with conditions. Motion carried 7-0.**

- Applicant agreed to comply with the comments outlined in the Planner's Staff Report dated May 5, 2017.
- Applicant agreed to remove the powder room in the basement
- Applicant agreed to build a curb in the parking garage to prevent a vehicle from inadvertently colliding into the wall

Application: ZBA-17-2

Premises: 43-57 Passaic Street

Ward: North

Applicant: McCarter-Riverside Group LLC

To Permit: In the Riverfront Public Access and Redevelopment Plan Area, Sub-district Mixed Use: Residential, Light Industrial, Retail zone, proposed outdoor storage for Jersey Barriers, steel buckets, and plates, and similar material for the Napp-Grecco Company nearby. Outdoor storage facilities are not permitted in this zone. **Seeking a D¹ Use Variance; C Variances for exceeding maximum impervious front yard, insufficient sidewalk width, to permit barbed or razor wire fencing, a design waiver to allow chain link fencing, and a design waiver to allow the use of wall material not permitted. Preliminary and Final Site Plan approval required. William Sullivan Jr., Esq., Brett Skapinetz, Engineer, and Michael Pessolano, Planner, appeared before the Board. There were no objectors present. A motion was made by Commissioner Hall and seconded by Commissioner Ruivo to approve this application with conditions. Motion carried 7-0.**

- Applicant agreed to comply with the directives from the Dept. of Engineering.

- Applicant agreed to work in conjunction with the Division of Water/Sewer Utilities to satisfy their directives.
- Applicant agreed to work in conjunction with the Office of Planning to propose an alternative barrier rather than barbed wire fencing.

2016 Annual Report adjourned to the next regular hearing

Memorialization

ZBA-17-7	609-633 Broad Street
ZBA-16-78	188-190, 192 Wilson Avenue
ZBA-17-14	415-433 Elizabeth Avenue
ZBA-16-83	41-51 Wilson Avenue

Adjournment [10:35 PM](#)

Next Regular Meeting: May 25, 2017

Next Special Meeting: June 1, 2017