

**BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
April 10, 2018**

Roll Call:

Present:

Mayor Matthew Anesh
Brian Bythell; Alt. 2
Paul Grzenda
Rich Houghton
John Mocharski
Peter Smith
Jack Pedersen; Vice Chairman
Bob Ackerman; Chairman

Absent:

Councilman Derryck White
Michael Pellegrino
Stephanie Bartfalvi; Alt. 1

Also Present: Alex Fisher, Esq.; Stan Slachetka, PP, AICP; Bob Bucco, PE, CME, CPWM

Chairman Ackerman opened the meeting at 7:00 pm stating that this meeting is being held in accordance with the Open Public Meetings Act, by posting a notice to The Observer and The Courier News and providing the same to the Borough Clerk.

It is the policy of the Borough of South Plainfield's Planning Board not to hear any new cases after 10:00 pm and no new witnesses after 10:30 pm.

Minutes: February 27, 2018 Meeting

Chairman Ackerman calls for a motion to *approve* the above listed Minutes. Mr. Mocharski made motion, seconded by Vice Chairman Pedersen. Those in favor: Mr. Bythell; Mr. Houghton; Mr. Mocharski; Mr. Smith; Vice Chairman Pedersen and Chairman Ackerman. Opposed: None.

Resolutions: (1)

- A. Case #780 - ONYX Renewable Partners, LP**
Block 255; Lot 11.02; M-3 Zone
501, 601, 701 Kentile Road

Chairman Ackerman calls for a motion to *approve* the above listed Resolution. Mr. Mocharski made motion, seconded by Mr. Houghton. Those in favor: Mr. Bythell; Mr. Houghton; Mr. Mocharski; Mr. Smith; Vice Chairman Pedersen and Chairman Ackerman. Opposed: None

Current Files: None

Informal Hearings: None

Public Hearings: (1)

- A. Case #17-02 - B. Bengi, LLC**
Block 265; Lot 22 & 23; HDD Zone
115-117 & 119 Hamilton Boulevard

The applicant is requesting a *Preliminary and Final Major Site Plan* approval with a *Minor Subdivision* to construct two (2) buildings with retail space on the first floor and apartments on the second and third floor.

Mr. Fisher, Board Attorney, determined that the Public Notice is deficient. The Notice does not state what is being proposed on the property – retail with apartments above. Per Case Law, specifically under *Perlmart vs Lacy* Township Planning Board, 295 NJ Super 234 (App. Div. 1996) requires that the Notice is to *inform the Public of the*

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nature of the application in a common-sense manner such that the ordinary lay person could determine whether to object or to seek further information. The Court invalidated an approval where the notice stated it was made for the creation for commercial lots but did not inform the public the nature of the use – a Kmart shopping center'. Pond Run Watershed vs Hamilton Township Zoning Board of Adjustment, 397 NJ Super 335, the Court found invalidated variance where the Notice failed to include a restaurant that was proposed. The Notice does not require the name of the business but it does require the nature of what was propose. Notice is jurisdictional. The Board does not have jurisdiction to hear this application. Re-Notice is required.

Chairman Ackerman stated since the Notices are deficient, the applicant will have to re-publish and re-notice. Mr. Levinson, attorney for the applicant, stated that will not be a problem. Chairman Ackerman continued... the application will not be heard tonight.

Mr. Fisher asked Mr. Levinson if May 8, 2018 is sufficient time. Mr. Levinson replied yes. Chairman Ackerman reiterated that the hearing will be held on May 8, 2018.

Mr. Fisher stated this will give the applicant time to address some of the waiver issues. Mr. Levinson stated they will proceed with rectifying the waiver requests to provide ample proof for the waivers which are being questioned.

Chairman Ackerman stated that there are several issues in reviewing the application. Both the Planner and Engineers report, have many items that were not addressed and incomplete. Even though they were not waiver requested, please address these items in this time period. That would move the process along. Mr. Levinson stated that would not be a problem.

Mr. Fisher stated that the revised submission on July 25, 2018, the Board only received pages 1,3,4,5. If other pages were revised to resubmit.

Chairman Ackerman stated if the plans are to be done over, to provide at least four (4) new sets. Mr. Fisher advised they are to be received at least ten (10) days prior to the next hearing. Mr. Bucco stated he would like two (2) sets... one (1) to have in the file and one (1) to markup. Therefore, seven (7) sets of revised plans have been requested.

Vice Chairman Pedersen has recused himself from this hearing. He has a business relationship with one of the principles.

Chairman Ackerman stated the application will be heard on May 8, 2018.

Old Business: None

Committee Reports:

- A. **Street Naming Committee** – Bob Ackerman – Received a request from the Fire Department to have a street named after Reverend Mingle. Also, received a request for Lenard Melillo, Jr. Currently, no streets are available to be named.
- B. **Environmental Committee** – Rich Houghton & Bryan Bythell - report progress.
- C. **Council Reports** – Councilman White – absent.
- D. **Mayoral Updates** - Mayor Anesh – absent. Chairman Ackerman advised the Board that the Mayor announced at the last Council Meeting that the proposed truck route (Hollywood Avenue) has been approved but financing is an issue. However, Congressman Pallone came to New Jersey from DC to meet with the Mayor and Council. He liked the idea and will try to get funding for the project

Minor Site Plan: None

New Business: None

Correspondence: None

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Audience Comments: None

Executive Session: None

Adjournment: 7:15 pm.

Respectfully Submitted,
Joanne Broderick
Planning Board Secretary