

April 19th, 2021
Hawthorne, NJ 07506

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 7:00 p.m.

Open Public Meeting Statement

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne is now in session. In accord with the provisions of Section 5 of the "Open Public Meetings Act", I wish to advise that notice of this meeting has been posted in the front lobby entrance to the Council Chambers of the Borough Hall and that a copy of the schedule of this meeting has also been filed with the Borough Clerk, and that copies of the annual notice of meetings, of which this is a part, have been heretofore sent to The Record and the Herald News - newspapers with general circulation throughout the Borough of Hawthorne

This meeting is being conducted virtually via GoToMeeting which provides both audio and visual participation and would have otherwise taken place in the Council Chambers of the Hawthorne Municipal Building, 445 Lafayette Avenue, Hawthorne, NJ. Notice of this virtual meeting and participation instructions were published in both The Record and the Herald News at least 48 hours prior to the meeting. The notice and instructions were also posted on the Borough Website and the meeting agenda. The agenda was posted on the front and rear entrances of Borough Hall, in addition to the locations previously stated.

FLAG SALUTE

Chairman Hallock invited all present to join him in the Pledge of Allegiance.

ROLL CALL

Chair.....	Raymond Hallock
Vice Chair.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Scott Chamberlin
Board Member.....	Jack B. De Ritter
Board Member.....	Annamarie Sasso
Board Member.....	Victor Cuttitta
Board Member (Alternate #1).....	Eleanor C. Wenzke
Board Member (Alternate #2).....	Lyle Hatch

Also, in attendance Board Attorney James Delia, Board Engineer Mike Kelly, Board Secretary Joan Herve.

BILLS:

Chairman Hallock entertained a motion to approve the bill list and forward it to the Treasurer for payment, moved by Schroter, seconded by a Chamberlin. On a roll call vote, all present voted yes. Motion carried.

Herald News:

2.22.2021-Meeing Cancellation Notice:	\$9.12
3.15.2021-Meeting Cancellation Notice:	\$8.36
Gann Law Books	\$315.50

APPROVAL OF MINUTES

Chairman Hallock entertained a motion to approve the minutes of the re-organization meeting of January 25, 2021 meeting moved by Gallagher, seconded by Sasso. On a roll call vote, all present voted yes. Motion Carried.

OLD BUSINESS - None

NEW BUSINESS

Chairman Hallock stated he could hear this application as he has stepped down from the Board at Columbia Bank Applicant Attorney Robert Landel and Attorney John J. Segreto who represents Lafayette Park both stated they had no objection.

This Application was before the Hawthorne Planning Board on February 16, 2021 for an amended Site Plan application. Issues were raised as to whether the application was in front of the correct Board as an issue of density and use was questioned. The property is in the B-2 Central Business zone. In addition to the business/retail uses permitted in the zone allows for R-2 one and two family uses. Therefore, it was determined this application needed to be heard by the Zoning Board of Adjustment.

For the record, John J. Segreto, Esq. stated he represents Lafayette Park Associates, the owner of Lafayette Park Apartments, the joining property to the south. Mr. Segreto sent a letter addressed to Chairman Hallock and cc the Applicant's attorney Mr. Landel. He stated his clients has concerns with the parking. He request the applicant to agree to the following conditions of approval which will be reflected on an amended Site Plan.

1. A 5' Chain link fence with slats along the length of the southern property line on top of the retaining wall;
2. Appropriate signage on both side of that fence, for the length of the fencing, that theater and patient/customer parking is prohibited in the Lafayette Park Apartment complex; and
3. The same type of fencing/screening around the generator as Mr. Lombardo is concerns with the noise generated therefrom.

Mr. Landel responded prior to meeting that the applicant has no objections to the requested conditions and will move to amend its Application to reflect the same as long such changes are acceptable to the Board.

Mr. Landel gave a brief overview regarding this application. The building and site plan was previously approved for a two-story medical and office building with off-street parking (Planning Board Resolution of Approval dated October 18, 2016). The Applicant proposes a total of five (5) apartment units, two 2-Bedroom units and three 1-bedroom units, where (2) units are permitted. to provide for residential use on the second floor and a generator area to be located on the eastern side of the building structure

Mr. Landel called his first witness Gabe Juliano. After being sworn, he testified as principal owner of the subject property. This application tonight is simply to convert second floor from commercial use to residential use. Mr. Juliano explained they tried to rent it as commercial, however with many people working from home due to COVID, it is more desirable as residential. Mr. Landel asked, you have an easement agreement with the owner of lot 12, EMS Realty (parking lot for the movie theater). Have you reached out to them regarding you renting out for the second floor residential uses. Mr. Juliano stated yes, we have a letter to the Borough of Hawthorne that we can use that as residential use parking. In Mr. Kelly's report he recommends 9 reserve spaces, we have 10. We also are proposing a generator which is on the amended plans to make it secure if the power ever went out.

Chairman Hallock asked if there were any questions from the board and residents. Hearing and seeing none he ask Mr. Landel to call his next witness

Mr. Landel called his next witness Mr. Bruce Rigg, P.A. and based on his numerous appearance before the Board, he was offered and accepted as an expert witness. After being sworn, he stated that he prepared the site plans prior to October 2, 2016. The site plan before us today shows the revision date of November 2020 where revision were made to sheets 1, 3 and 4. The changes reflect the different use, the first page is the property owners list, page 3 is the site plan, the main change on this is the generator, which is in the north on the eastern side of the building, which will be completely fenced in. Third change is the number of parking spaces which they now have 56 on site. Mr. Riggs stated there was conversation with Mr. Segreto officer regarding the fence along the southerly property line. That fence

would be between the wall and the rail that is running along the parking spaces. What we are proposing is five feet in height.

Chairman Hallock ask the members of the board if they had any questions for Mr. Riggs

Board Engineer Mike Kelly

Mr. Kelly stated he just want to confirm with Mr. Riggs about the detectable warning surfaces; they are not required for the driveway however; they are required for the crossing across the road. He stated everything else in his letter has been addressed in his testimony. Mr. Kelly continued regarding the fence height; the planning board previously granted a variance for the fence around the refuse/recycling area to be six feet. The code permits a fence up to six feet in height when you are located in an area that's not considered a front yard, and it's not to exceed four feet when located in the front yard. Where the applicant is proposing along the retaining wall, the fence height is measured from the natural grade, it look like the fence elevation is going to be 86.5 which may extended into a front yard. He suggested the Board consider this a variance, because you don't want to create an issue where we approve something and then it's brought that it's a variance condition. To be safe you may want to consider a total fence height of 8.4 feet with the understanding that the actual fence on top of the wall is not going to exceed that 86.5 foot elevation. Board Agreed.

Chairman Hallock ask if members of the public had any questions for Mr. Riggs

Debbie Provencher, director of Lighthouse Pregnancy Center, 297 Lafayette

Ms. Provencher stated she is located next door adjacent to the property, she asked, regarding parking. Lot 12 , the ongoing easement which is the parking between the movie theater, was there ever discussion for public parking permitted in that lot if the movie theater didn't re-open for making any space available for general downtown use. No Board Members and the professionals were aware of any discussion.

Mr. Landel called his next witness Mr. Edward Easse, Architect/Planner and based on his numerous appearance before the Board, he was offered and accepted as an expert witness. After being sworn Mr. Easse stated he prepared three drawings tonight, the first EXHIBIT A-01 dated 11.15.2020 - the first sheet shows the facade of the building that is presently built at the location; the footprint, window pattern, material all stayed the same from the original application. The second sheet EXHIBIT A-02 - shows the second floor where there will be five residential units, three (1) bedrooms and two (2) bedrooms. He also prepared a basement plan where they are proposing (5) apartment storage units for the (5) residential users. On the first floor is still going to be commercial use. Attorney Landel asked Mr. Easse to explain the sprinklers, Mr. Easse explained we have a NSPA 13 system which is the strictest highest density sprinkler heads that you can have, there is no provision to change that. They are going to provide the same system on the upper floor as well. Attorney Landel asked Mr. Easse as the Planner - to explain to the board why this residential use is density variance and how the site can accommodate the problems normally associated with the increase in density. He explained we went through a lot of determinations that what fits best. We came up with possible the five unit concept because in the B2 zone which refers to a B1 business zone allows you to have residential on the second floor only and that is limited to two units. We took the size of the parking lot commendations for parking and the size of the building and came up with (5) based on 3250 square feet per unit. This is the requirement of residential in a b2 zone on the second floor for apartments. He feels this is a good transition according to the Master Plan.

Chairman Hallock ask the members of the board if they had any questions for Mr. Easse.

Board Engineer Mike Kelly

Mr. Kelly stated for the record, the applicants agrees to meet all affordable housing requirements for the borough. Mr. Easse stated yes, Mr. Kelly stated he wants to make sure that nothing is overlooked, that if this is approved, we don't run into any issues down the road. He brought up in his report asking if a use variance is required. Because as the way the code is written, it permits any R2 District uses on the second floor and permits 1 & 2 Family uses. The applicants is proposing five units. They are requesting a density variance; we just want to make sure the right variances are being requested. Mr. Landel stated for the record they advertise for both a density and a use variance. Board Attorney James Delia advised the board to vote both ways. Mr. Gallagher questioned if we pass it as a use variance does that hurt us or do we pass it on a D variance. Discussion ensued. The board decided to approved it as a use variance.

Chairman Hallock ask the members of the public if they had any questions for Mr. Easse, see and hearing none, Mr. Hallock closed the hearing.

Chairman Hallock entertained a motion to approve the above application for a use and height fence variance on the southern side of the property, moved by Gallagher, seconded by Sasso. On a roll call vote, all present voted yes. Motion carried. Mr. Delia also confirm this also includes the change to the plan to allow for the generator and the fencing around the generator. Board agreed.

CLOSED SESSION - On a motion by Chamberlin, seconded by De Ritter, the Board entering into Executive Session closed to the public. Motion Carried by voice vote – all present voting “Aye”.

A Resolution - providing for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. NJSA 10:4-12

Whereas, the Zoning Board of Adjustment of the Borough of Hawthorne is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6; and

Whereas, the Open Public Meetings Act, NJSA 10:4-12 provides that an Executive Session not open to the public may be held for certain specified purposes when authorized by resolution; and

Whereas, it is necessary for the Zoning Board of Adjustment of the Borough of Hawthorne to discuss in a session not open to the public certain matters relating to the item or items authorized by NJSA 10:4-12 (b) as follows:

- 7- Matters relating to litigation, negotiations and attorney-client privilege
Braen Avenue, LLC

Now therefore, be it resolved by the Zoning Board of Adjustment of the Borough of Hawthorne assembled in public session on April 19, 2021 that an Executive Session closed to the public be and the same is hereby authorized for discussion of matters relating to the specified items designated above.

Closed Session began at 8:00 p.m. and ended at 8:05 p.m.

ADJOURNMENT

At 8:05 p.m. Vice Chairman Gallagher entertained a motion to adjourn the regular meeting, moved by De Ritter, seconded by Cuttitta. All in favor, “Aye”.

**THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT
WILL BE ON**

~MONDAY, MAY 17, 2021 ~
WILL BEGIN AT 7:00P.M.

Respectfully Submitted,
Joan Herve, Secretary