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MINUTES OF THE REGULAR MEETING OF THE PLANNING BOARD OF THE
BOROUGH OF METUCHEN

JANUARY 5, 1978

The meeting was called to order at 8:00 p.m. by Chairman James W. Conlon, who read the opening statement attached. On roll call those present were Messrs. Barnickel, Conlon, Morris, Palmeter and Wernik. Also present was Jerald D. Baranoff, Esq., representing Mr. Sills, the Board's attorney.

Mr. Wernik moved that the minutes of the December 1, 1977 and December 15, 1977 meetings be approved as submitted, which motion was seconded by Mr. Barnickel and unanimously carried.

Mr. Conlon read a letter from Mr. Charles Durfor, submitting his resignation from the Board due to increased professional and personal responsibilities. Mr. Wernik indicated that the Environmental Commission had been contacted so that a replacement for Mr. Durfor could be appointed, and that the name of such new appointee should be received shortly.

Mr. Morris was duly sworn by Mr. Baranoff and was welcomed to the Board by Mr. Wernik.

Subdivision Committee

Lawrence M. Cifrodelli
Block 152, Lots 21 and 23
Summit Avenue

The Secretary read a letter to the Board indicating the applicant's request that the matter be carried to the February meeting, as Mr. Cifrodelli had not yet received the permit from the State concerning sewer extension. Mr. Cifrodelli also indicated his consent to an extension of time within which the Board could act in this matter. Accordingly, the matter was carried to the February 2nd meeting of the Board.

John and Lillian Polakowski
Block 48, Lots 7-10
Central Avenue

James B. Convery, Esquire, represented the applicant and stated to the Board that after discussion with counsel, he would request an adjournment of the matter until the February meeting of the Board, inasmuch as the application requires a variance and therefore property owners within 200 feet of the premises in question would have to be notified. Mr. Baranoff indicated that the Board could classify the subdivision as minor, based upon the notice already sent by the applicant, and hear the variance aspect of the application at the next meeting. After discussion, Mr. Barnickel moved that the application be classified as a minor, which motion was seconded

by Mr. Wernik and on roll call vote unanimously carried. The secretary indicated that she would submit copies of the sketch and application to the Middlesex County Planning Board for its consideration.

Site Plan Committee

Mattie Burroughs
Block 49, Lot 14.01
Central Avenue

Mr. Conlon read a memorandum from Mr. Terwilliger, Building Inspector, indicating that he inspected the premises in question, accompanied by the applicant and the fire inspector, and that the same did not meet the standards of the borough's building and fire codes. Accordingly, Ms. Burroughs was instructed to cease using the facilities as a place of assembly and indicated that the site plan application would be withdrawn. Mr. Barnickel moved that the matter be dismissed without prejudice, which motion was seconded by Mr. Wernik and on roll call vote unanimously carried.

Chris A. Nelson
Block 206, Lots 1, 2, 9 and 11
3 Amboy Avenue

James B. Convery, Esquire represented the applicant and submitted an Affidavit of Service and waiver of notice by the Township of Edison. Mr. Conlon then discussed with the attorney the fact that variances would be needed in connection with the application, and that mention of same should be made in the notice, and a variance application should be submitted together with the site plan application. The Chairman also indicated that the consent of the owner to the application should be submitted, and Mr. Convery stated that he had already obtained such a consent. Mr. Conlon then reviewed certain requirements of the Site Plan Ordinance to which the applicant must adhere, including sequence of development, elevations of buildings and landscaping.

Several property owners were present to address the Board concerning the application. Mr. Joseph Weissenberger, an adjoining property owner in Edison, expressed his concern concerning the paving of the proposed parking lot, which would directly adjacent to his residence, and questioned if some type of screening or fencing would be provided. Mr. Convery indicated that the applicant would accede to the wishes of the property owner in this regard. Mr. John Ivan, owner of property on the corner of Amboy Avenue and Goodwill Place, stated that water runoff was a problem in the area, which might be aggravated by the additional paved parking lot.

Mr. Convery indicated that he would file the necessary variance application, attend to certain revisions in the site plan and re-serve and re-publish the required notices. He requested that the matter be considered at the February 2nd meeting of the Board.

Subdivision Committee
Joan S. Eosso
Block 118, Lots 48, 17 and 18.05
Highland Avenue and Inn Place

The applicant was represented by Howard Gran, Esquire, of South Plainfield, New Jersey. The Secretary read a letter from the Middlesex County Planning Board indicating that said board would require no further information on the application, unless this Board would require final plans. The Secretary also read a letter from Rowand Clark, Esquire, representing Mr. Lawrence Silberstein, an adjoining property owner, which alleged that the form of notice provided by the applicant was insufficient. Mr. Conlon indicated that the matter would be discussed at the hearing upon the application and stated that the Planning Board can waive the notice requirement if the matter were classified as a minor subdivision.

Mr. Silberstein addressed the Board and indicated that there might have been more property owners in attendance if the proper notice had been given. He also expressed his contention that the application should be classified as a major subdivision and that the same was in conflict with the Master Plan. Mr. Baranoff suggested that the Board first classify the application and then address itself to the question of notice.

Mr. Conlon then reviewed the criteria which would render an application as minor, namely that the subdivision does not involve the creation of more than three lots, there is no planned development, no new streets created and no extension of any off-tract improvements. After discussion, Mr. Barnickel moved that the application be classified as a minor, which motion was seconded by Mr. Wernik. On discussion of the motion, Mr. Frank Eigenbauer, Robins Place, Metuchen, indicated that consideration should be given as to the proposed use of the subdivided lot. Mr. Gran indicated that the Metuchen Ordinance is in conformity with the state statute as to the definition of a minor subdivision. On roll call vote, MR. Barnickel's motion was unanimously carried.

In response to Mr. Gran's questions, Mrs. Eosso, duly sworn, testified that she was the applicant and attended to the service upon property owners. She described the manner of service upon each owner, submitted those out-of-the-area owners for which she had certified mail receipts, and stated that this was accomplished in accordance with the certified list of owners she had received from the tax office. Mr. Gran stated that this hearing was continued from the December meeting of the Board and that many owners were present at that time and should have had knowledge of this meeting, in addition to the notice provided by Mrs. Eosso and the publication in the newspaper. After discussion, Mr. Wernik moved that the Board waive the requirement of notice to the extent that not complied with by the applicant, which motion was seconded by Mr. Barnickel. On discussion of the motion Mr. Barnickel stated that the Board can waive the requirement of any notice whatsoever, but that this applicant has appeared before the Board two times and, however technically deficient the notice may appear to be, he was satisfied that the applicant had given sufficient notice. Mr. Silberstein again requested the Board to consider the effect of the subdivision on the neighborhood and Mr. Clark pointed out that a lot number was incorrectly set forth on the application. Mr. Gran stated that the correct lot designations were shown both on the notice and on the publication notice. On roll call vote, Mr. Wernik's motion was unanimously carried.

Mr. Gran then presented the merits of the case, stating that the applicant receives two separate tax bills for the premises and she therefore sought to subdivide the premises along existing lot lines. He stated that the applicant would retain an easement to allow access to her driveway from Inn Place. The attorney also stated that he has a representation from Mr. Philip Ruegger, the purchaser under contract, that the subdivided lot can be annexed to Mr. Ruegger's existing property, if the Board would so require. Mr. Gran indicated that there are no parking or garage facilities on Highland Avenue and that the topography there would make such facilities impossible to accomplish.

Mr. Philip T. Ruegger, president of Northwest Construction Company, was duly sworn. He indicated that he wished to purchase the property to allow a more convenient parking arrangement for the tenants in the existing professional building on Highland Avenue. The witness testified that the acquisition of the lot would allow "turn around" space for the tenants' cars, and that he had no present intention to pave the lot, but to retain the gravel finish already existing. He also stated that he had no present plans to develop the property in any way, and that there was no present drainage problem on the premises.

Mrs. Genevieve Silberstein, 36 Highland Avenue, Metuchen, requested the Board to consider the question of water and mud flow, as well as the issue of the quality of life, in that one would not want to have one's residence adjacent to a parking lot. Mr. Silberstein stated that quiet enjoyment would be injured, property values in the area would be decreased and that the creation of a parking lot would create a hazard for children in the area. He also indicated that the Master Plan delineated this area as residential and not commercial. Mr. Conlon indicated that the Land Use Act adopted in January, 1977 indicated that this parcel was in the central business district, and that the proposed use was permitted in the existing zone.

In response to Mr. Morris' question, Mrs. Eosso stated that the area between her property and that of Mr. and Mrs. Silberstein was heavily wooded and that a natural buffer was provided.

In summation, Mr. Clark argued that there was only one residential use upon the premises and that although the new lot would conform to the existing ordinance, that the parking lot use would be a severed use. He also cautioned the Board of the legal problems involved in the creation of an easement arrangement between the applicant and the ultimate purchaser of the premises, in addition to the nuisance of having an unpaved parking lot in inclement weather.

Mr. Gran indicated that the garage upon the premises has not been used for many years, that the application requires no variance, the lot conforms to all requirements of the Zoning Ordinance. He also stated that the applicant could have entered into a long-term lease arrangement with Mr. Ruegger, thereby alleviating any appearance before this Board. He stressed that Mr. Ruegger would have to obtain any and all necessary permits before paving or causing any development upon the premises. He suggested that the natural buffer is sufficient, that this is a straightforward two-lot minor subdivision and that he foresaw no problem with the easement arrangement. He stated that the application is minor in the statutory sense and minor in scope as well.

Mr. Wernik then moved that the application for minor subdivision be approved, which motion was seconded by Mr. Barnickel. Several of the Board members expressed their feelings that they were sympathetic with the suggestions of Mr. and Mrs. Silberstein and other property owners, but that they felt that the negative impact, if any, would be minimal. On roll call vote, Mr. Wernik's motion was unanimously carried.

Old Business

Michael Senet
Block 62, Lots 13 and 24

Mr. Conlon read to the Board a form of resolution attached hereto. On motion of Mr. Wernik, seconded by Mr. Barnickel, the same was approved, with Messrs. Barnickel, Conlon and Wernik voting "aye" and Messrs. Palmetter and Morris abstaining, as they had not heard the testimony on the subject matter.

There being no further business to come before the meeting, the same was duly adjourned at 11:10 p.m.

Respectfully submitted,



EILEEN M. ROBINSON, Secretary
Metuchen Planning Board