

**FORT LEE BOARD OF ADJUSTMENT**

**SPECIAL MEETING**

**OCTOBER 22, 2015**

**Present:** H. Joh, G. Makroulakis, D. Porrino, H. Liapes, J. Silver, D. Starace, P. Yoon,  
D. Sugarman

**Absent:** J. Nitti

**Present:** J. Mariniello, Sr., Esq., M. Jovishoff, Phillips, Preiss, Grygiel, D. Juzmeski, Neglia  
Engineering, Andy Jafolla, Dynamic Traffic, C. Trentacosti, Assø Secretary

Chairman Sugarman called the meeting to order at 7:30 p.m.

**NOTICE OF MEETING:** The Chairman states: Let the minutes reflect that adequate notice of this meeting has been provided in the following manner: All members of this Body have been advised in writing at least 48 hours prior to this meeting of the time, place, and proposed Agenda of this meeting. A written notice of the time, place, and proposed Agenda was posted on the bulletin board of Municipal Building, 309 Main Street, Fort Lee, New Jersey. On the same date, a copy of said written notice was mailed to the Record, Jersey Journal, Time Warner Cable and Fort Lee Online. A copy was filed with the Borough Clerk and, on the same date, copies were mailed to all persons who have requested copies of such notices and have prepaid the fee fixed for the year 2015.

Chairman Sugarman announced that Mr. Yoon will be sitting in as a voting member tonight.

**Postponements**

**Dockets #21-15 & 22-15, GPC Homes, 1138 fourteenth Street, Block 1051, Lot 9 and 1144 Fourteenth Street, Block 1051, Lot 10, Two, Two-Family Dwellings**

Chairman Sugarman announced at the request of the applicant we will carry these matter to the meeting of November 10, 2015. No further notice is required and the applicant has waived the time for the Board to act.

**Public Hearings**

**Docket #2-15, 2301 LLC, 2301 Lemoine Avenue, Block 6756, Lot 5, Preliminary/Final Major Site Plan – 4 Story 24-Unit Residential Building**

Marc Leibman, Kaufman, Bern, Sermeraro & Leibman, representing the applicant stated this is a continuation of a public hearing from July 28, 2015. Changes have been submitted to the Board and we have reduced the number of units from 28 to 24. Mr. Leibman called his first witness Ray Virgona, Architect, 115 River Road, Edgewater, NJ. Mr. Virgona was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Leibman asked if these are the same revised plans as submitted to the Board.

**ZBA October 22, 2015 – Page Two**

Mr. Virgona stated yes, last revised September 21, 2015, 4 sheets. The building has been reduced in bulk and depth by 900 sq. ft. per floor and 3,500 sq. ft. in total. The prior front yard setback was 10 ft. and now it has been increased to 20 ft. The south corner setback is now 14 ½ ft. The number of units has been reduced from 28 to 24 units.

Mr. Virgona reviewed the elevations and new depth on page SK1 stating the height of the building remains the same. SK2 shows the lower garage and entrance. The tandem parking spaces have been removed and there are 20 parking spots at this level. SK3 the lobby level allows for 19 parking spots and there has been an increase in the trash/recyclable room by 21+ft. SK4 is the revised apartment layout. There are now six units per floor instead of seven. Trash chutes /rooms are now on each floor. The materials to be used on all sides of the façade are brick and stucco. There is an 8 ft. clearance to the lower garage and an 8.2ft. clearance to the lobby parking deck.

Chairman Sugarman asked for questions from the Board, the public.

Mr. Makroulakis asked to the ability for passenger drop off and deliveries.

Mr. Virgona stated the roadway is set in and this is not part of the property.

Chairman Sugarman asked if a vehicle can make a drop off at the garage entrance.

Mr. Virgona stated yes.

Mr. Leibman stated we have a letter from the DOT which has been handed out stating they are in general agreement with the proposed access management plan.

Mr. Silver asked to a drop off for residents with groceries, etc.

Mr. Virgona stated they can do this through the garage. There are elevators at the garage levels.

Mr. Silver asked to the deliveries, Fedex, move-ins.

Mr. Virgona stated a lane is being created off Route 9W creating this drop-off/loading area.

Mr. Porrino asked if this is the applicant's property.

Mr. Virgona stated it is the shoulder of the road.

Mr. Leibman stated we will provide more pavers as a condition of approval on our property for delivery drop-offs.

Mr. Makroulakis asked how much room is there to work with.

Mr. Leibman stated 10+ ft.

No one from the public appeared to question the witness.

**ZBA – October 22, 2015 – Page Three**

Mr. Leibman called his next witness, Steven J. Collazuol, John Collazuol & Associates, 1610 Center Avenue, Fort Lee, NJ. Mr. Collazuol was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Collazuol stated the site plan consists of seven pages last revised on October 6, 2015 as submitted to the Board

Mr. Leibman marked into evidence

**Exhibit A5 site plan mounted in color**

Mr. Collazuol reviewed the location of the trees and the increased screening around the transformer which has been relocated and is now 10 ft. from the front lot line where it had been 2ft.. The mounted plan shows the new footprint with the building superimposed. The comments contained in the October 19, 2015 report are being addressed and the easement description has been revised. The landscaping will be revised along the truck turnaround area along with the underground electric. Added on sheet four per Mr. Jovishoff's comments are a red maple, dogwood and boxwoods in the area of the generator. The reduction in the bulk of the building has not decreased the number of variances which remain the same.

Chairman Sugarman asked for questions from the Board.

Mr. Makroulakis asked for more plantings around the generator.

Mr. Collazuol stated the generator can be moved closer to the building and we will not eliminate any plantings.

Chairman Sugarman asked for questions from the public, no one appeared.

Mr. Leibman called his traffic expert, Frank Filicotto, Stonefield Engineering, Orient Way, Rutherford, NJ. Mr Filicotto was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Filicotto stated we are working with the DOT on the widening of the area to allow for truck deliveries which will not interfere with the flow of the traffic ó approximately 12ft wide at the shoulder. The DOT has given us a contingent agreement for a proposed access management plan. The applicant will also conduct soil borings at the site per their recommendation. We are anticipating a completion of this application with the DOT in the spring.

Chairman Sugarman stated this will be a condition of approval.

Mr. Porrino asked if the DOT was aware of what is being proposed for the shoulder, will they allow this.

Mr. Filicotto stated the DOT is aware of the proposed use for garbage trucks, deliveries, etc. It is not being used for parking of any kind.

Chairman Sugarman stated he had concerns with people parking in the shoulder.

Mr. Leibman stated it can be painted yellow.

**ZBA – October 22, 2015 – Page Four**

Chairman Sugarman stated this will be a condition of approval.

Mr. Silver asked what will make trucks not park there for long periods of time.

Mr. Filicotto stated it will be a loading and unloading zone only.

Mr. Makaroulakis asked to the circulation in and out of the garage.

Mr. Filicotto stated the exiting is onto the shoulder to the street.

Chairman Sugarman asked to the parking.

Mr. Filicotto stated now with the reduction in units we have 39 parking spaces. We are short by 6 spaces under the RSIS.

Mr. Porrino stated they are short on parking and the street parking is only a few meters on Lemoine north of the site and across the street.

Mr. Filicotto stated there are 4 meters on the west side of Lemoine and 9 on the east side.

Mr. Porrino stated this is unfair to the businesses in the area. The commercial stores rely on parking.

Mr. Joh stated the parking next to the building is a bank which is private parking.

Mr. Silver asked if the parking spaces were assigned and what the speed limit is at the turn on route 9W.

Mr. Filicotto stated the spaces will be assigned and the speed limit is 30 MPH at the curve.

Mr. Silver asked if a study was done to see the speed of drivers at the location.

Mr. Filicotto stated that the speed of drivers had not been studied.

Chairman Sugarman asked for questions from the public, no one appeared.

Mr. Leibman called his next expert Joseph Layton, Professional Planner, Maser Consulting, 53 Frontage Road, Clinton, NJ. Mr. Layton was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Layton stated he visited the site. There are 7 spots of metered parking to the north of the site on Lemoine Avenue and 20 metered spots across the street on Route 9W. The adjacent buildings to the north including the church have their own parking.

Chairman Sugarman asked if the parking at the bank and/or the church was available to the public.

Mr. Layton stated no, metered parking only and there is no retail on the west side of Lemoine Avenue. The site which is in the C2 Neighborhood Business Zone is bounded by the R3A One and Two-Family Residential Zone and the R5 Garden Apartment Zone across the highway where

**ZBA – October 22, 2015 – Page Five**

there is an 8-story apartment building. To the north is a bank, office building and church. The applicant requires three variances for Use, FAR and Height. Bulk variances are needed for minimum front yard setback, minimum rear yard setback and one side yard.

Mr. Liebman asked to the reasons for the granting of the variances.

Mr. Layton stated based on the Coventry case the site is suitable for this development. There is sufficient space for the residential use and the site is close to public transportation. Presently on the site is a car rental facility which is in disrepair. The proposed residential use fits in with the scheme of the neighborhood and there would be no impact to the neighborhood. The C variances are subsumed by the D variances. The purposes of the MLUL are promoted with this new development and there is no impairment to the Borough Zone Plan allowing for more housing options. The intent of the Master Plan and zoning ordinance is met.

Mr. Porrino stated the area would be better served if parking was met on site and there were fewer units. This would allow for residential parking and visitors would not need to cross a highway to park. I am not comfortable with the number of units.

Mr. Joh stated there appears to be no plan for any amenities.

Chairman Sugarman stated we are dealing with this application and not here to have the applicant re-design the project. That is the applicant's choice.

Mr. Leibman stated the original number of units was 28 and we have revised it to 24 due to the Board's concerns with traffic and parking.

Chairman Sugarman asked for questions from the public, no one appeared.

Mr. Filicotto reviewed the ITE and traffic counts for the Board.

Mr. Jafolla, the Board's traffic expert asked if parking is to be assigned.

Mr. Filicotto stated the parking is on demand as per the occupancy.

Mr. Leibman stated the Board knows the client and we will reduce the number to 20 units, the same as the footprint. The parking will be more than adequate. We will revise the plans.

Chairman Sugarman stated this matter will be carried to the meeting of November 24, 2015. No further notice on the part of the applicant and the applicant has agreed to waive the time for the Board to Act.

The Board took a 10 minute break at 8:50 PM. The meeting resumed at 9:00 PM.

**Docket #25-15 Hemant Prajapati, 502 Brinkerhoff Avenue, Block 1051, Lot 12, Two-Family Dwelling**

Chairman Sugarman announced this matter will be carried to the meeting of November 24, 2015, no further notice on the part of the applicant and the applicant has agreed to waive the time for the Board to act.

**Docket #35-14 MIKSI, LLC, 234 Whiteman Street, 225 Tom Hunter Road, Block 3955, Lots 11, 12, 21 & 23, Preliminary/Final Major Site Plan 18 Townhome Units**

Marc Leibman, representing the applicant stated this is a continued hearing from August 25, 2015.

Chairman Sugarman asked for opposing counsel to put their appearance on the record.

Jonathan Donath, Coughlin Duffy, LLP representing the Beverly Arms Condominium.

Mr. Leibman stated we have been in discussions with the association and will accommodate the requests. There were a number of concerns with the retaining wall and stormwater runoff. Mr. Donath has withdrawn his objections following our meeting and we will address their concerns.

Mr. Mariniello asked if there would be any cross-examination by Mr. Donath.

Mr. Donath stated if there were any new witnesses he might ask the Board.

Mr. Leibman called the site engineer, Mark Martins, 55 Walnut Street, Norwood, NJ. Mr. Leibman was sworn in at the prior hearing and is still under oath.

Mr. Leibman stated a transcript will be made of the hearing.

Mr. Martins reviewed the retaining walls and the new shift in the buildings to the west which will provide more air, light and open space. The area will have additional buffering and will have no impact on the roadway. All stormwater and runoff will now be handled on the site.

Mr. Leibman stated they will be responsible to any damage to the surrounding properties. We will also accommodate parking for the Beverly Arms should any damage occur to their parking areas.

Chairman Sugarman asked for questions from the Board, the public.

Jin Z. Wu, 229 Tom Hunter Road asked how they will separate and buffer with the neighboring parcels.

Mr. Martins stated proposed is a 5ft. fence. There is no extensive grading issue and we will have landscaped buffers along the fence line.

Robert Tessaro, 238 Whiteman Street has concerns with the 327ft. boundary/easement he shares with the property. Now that the buildings have been shifted to the west will the dimension of the roadway be narrowed. With this shift the cars parked outside the garages will be partially in the right-of-way.

Mr. Martins stated they will not be allowed to park in the driveways but in their garages.

Mr. Tessaro stated this will be unlikely and they will park in the driveways. The driveways are not 6 ft. in depth and a car cannot locate there without being in the roadway.

**ZBA – October 22, 2015 – Page Seven**

Mr. Martins stated it is not intended to be a parking spot but access to the garage.

Chairman Sugarman asked if a parking variance was required.

Mr. Martins stated the parking requirement is met.

Mr. Leibman called his next witness, Frank Filicotto, PE, Stonefield Engineering, 75 Orient Way, Rutherford, NJ. Mr. Filicotto was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Filicotto stated there is adequate parking and no intent to park in the driveways. The flow in and out of the complex is sufficient for the 18 units. There are 15 peak hour trips based on the recent ITE manual.

Mr. Leibman marked into evidence

**Exhibit A4 – Aerial Exhibit prepared by Stonefield Engineering and dated August 24, 2015.**

Mr. Filicotto reviewed the site and the school locations in the area. There are two-way roadways and during school hours Whiteman Street becomes a one-way. There will be full access to Whiteman Street with a right turn only Monday ó Friday. A gate will be down.

Chairman Sugarman asked to emergency vehicles and access with the gate down. Perhaps a knock box is required.

Mr. Filicotto stated there is also access onto Tom Hunter Road.

Mr. Silver stated there are gates that can be activated by sirens.

Mr. Filicotto stated yes we are aware of this activation.

Mr. Leibman stated we will set by a timer.

Mr. Makroulakis stated the space appears tight for a fire truck.

Mr. Filicotto stated we will work with the fire department and the police.

Chairman Sugarman asked how conflicts would be addressed with school drop offs.

Mr. Leibman stated another gate can be installed, we do not want a cul-du-sac.

Chairman Sugarman stated there should be a sign posted no access.

Mr. Filicotto stated it can be a key fob controlled gate.

Mr. Makroulakis asked to snow removal.

Mr. Leibman stated the snow can be moved to the grassy areas.

Chairman Sugarman asked for questions from the public.

**ZBA October 22, 2015 – Page Eight**

Elaine Nissen, 265 Beverly Hills Road asked if studies were done during non-peak hours. There are two playgrounds in the area.

Mr. Filicotto stated he witnessed only drop-offs and parking.

Ms. Nissen asked if Beverly Hills Road was studied. It is used as a play street where there are bikes, scooters, etc.

Mr. Filicotto stated he is familiar with the street. Studies are performed where the peak times occur.

Ms. Nissen stated the cars stack during drop-offs and pick-ups.

Mr. Filicotto stated there are periods when traffic backs up. There is one trip every four minutes from my observation.

Chairman Sugarman asked to the parking and traffic at Whiteman Plaza directly to the north on Lemoine Avenue.

Mr. Filicotto stated this was not used in the study.

Chairman Sugarman stated if there is no left turn on Whiteman Street a driver wishing to go to Center Avenue would proceed right on Whiteman to Lemoine, make a right and have to make another right on Tom Hunter Road which is congested due to the nursery school drop of in the morning. Tom Hunter Road is very narrow.

Mr. Estrada, 244 Whiteman Street asked when the photo was taken.

Mr. Filicotto stated it is a Google aerial shot, not a winter shot.

Mr. Estrada stated the snow will be a problem.

Mr. Estrada asked how many visits were made to the site.

Mr. Filicotto stated two or three times not including today. Today I was there in the morning, midday and between 5-6:00 PM.

Joshua Feng, 229 Tom Hunter Road asked if he knew there was street parking on one side of Tom Hunter Road. How will the snow removal be handled if another gate is put in?

Mr. Filicotto stated the plowing will be handled by the town.

Connie Green, 261 Beverly Hills Road asked if you are aware I have a handicapped daughter. We have a handicapped vehicle. Have you planned for a handicapped vehicle?

Mr. Filicotto stated he was not aware.

Nina Levinson, 1560 West Street asked how would she pick up a disabled friend who lives in the proposed complex.

**ZBA – October 22, 2015 – Page Nine**

Mr. Filicotto stated Tom Hunter Road will be accessible and we will not have a gate. The vehicle would pull up to a handicapped parking space.

George Porto, 450 Central Boulevard asked if consideration was made to the new projects in Fort Lee. The Modern, Kaufer Lane, etc. There is traffic all day long and we do not have wide streets. How will ladder trucks get through?

Mr. Filicotto stated we will work with the Fire Department.

David Forshtay, 261 Beverly Hills Road asked if there will be pedestrian traffic between the site and Beverly Hills Road.

Mr. Filicotto stated no.

Barbara Catania, 262 Whiteman Street asked if studies were done on days when the GW Bridge is backed up.

Mr. Filicotto stated he was not sure, the bridge is frequently backed up.

Mr. Starace asked if studies were conducted since the beginning of school this year. The area is very congested.

Mr. Filicotto stated the studies were done prior to school opening.

Chairman Sugarman commented that parents will figure out how to access the new site to avoid congestion during school drop off and pick-up times.

Mr. Filicotto stated they will be trespassing on private property.

Mr. Leibman called his landscape architect, Marla Roller, Maser Consulting, 53 Frontage Road, Clinton, NJ. Ms. Roller was sworn in and her credentials accepted by Chairman Sugarman.

Ms. Roller stated they have revised the plans to enhance the landscaping allowing for 316 new trees. The 286 evergreens will be used for the buffering of the property along with junipers and arborvitae. Additionally, there will be 300 shrubs.

Mr. Jovishoff asked if the relocation of the buildings called for the change in landscaping.

Ms. Roller stated no.

Jonathan Donath, Esq. representing the Beverly Arms asked for the variety of plantings to be dense in nature and 10 to 25 ft. in height.

Chairman Sugarman asked if the light would be affected on the adjacent properties.

Ms. Roller stated no.

Chairman Sugarman asked for questions from the Board, the public.

Linda Kochenberger, 265 Beverly Hills Road asked how many oak trees are to come down.

## **ZBA – October 22, 2015 – Page Ten**

Ms. Roller stated 46.

Ms. Kochenberger stated her concern with the time for the trees to mature.

Ms. Roller stated usually they mature 1 to 3ft. per year. It depends on the variety.

Nina Levinson, 1560 West Street asked what kind of maple trees are to be planted. A gold maple has been successfully planted in town.

Ms. Roller stated they would not be a good fit on the site.

Mr. Leibman called his final witness, Dan Bloch, Professional Planner, Maser Consulting, 53 Frontage Road, Clinton, NJ. Mr. Bloch was sworn in and his credentials accepted by Chairman Sugarman.

Mr. Leibman asked if the Master Plan and zoning ordinance was reviewed.

Mr. Bloch stated yes and he visited the site.

Mr. Leibman asked for a review of the variances.

Mr. Bloch stated there are four "D" variances. A D1 for use, D5 for the density, D6 for height as we exceed 10% and a D4 for the FAR. The bulk "C" variances are needed for minimum lot area per family where 5,000 sq. ft. is required and proposed is 2,745 sq. ft. The "C" variance is subsumed by the "D" variances.

Mr. Leibman asked for the existing conditions on the site.

The property is heavily wooded. There are currently five dwellings varying in height on the property. There is property frontage on both Tom Hunter Road and Whiteman Street. There is an easement which allows access to lot 23.

Mr. Leibman marked into evidence

### **Exhibit A6 – Color Mounted Rendering of Zoning Map**

Mr. Bloch stated the R2 one and two-family residential zone is at the edge of the R6 mid-rise apartment zone and adjacent to the C2 neighborhood business zone. There is a public school on Whiteman Street. The proposed 18 townhomes are in keeping with the R6 zone and the Beverly Arms. Access to public transportation and the downtown areas are within walking distance.

Mr. Mariniello asked what special reasons suit the site for this use, what constitutes walking distance.

Mr. Bloch stated ¼ mile. The MLUL calls for the redesign of areas to revitalize growth within downtown areas. This is a more efficient use of the land. There is no detriment to the Master Plan and the intent of the zone plan is met.

## **ZBA – October 22, 2015 – Page Eleven**

Mr. Porrino asked if isn't this spot zoning. If the Mayor and Council wanted this area changed they would have.

Mr. Bloch stated the parking is being met on site and the improvement to the area does not call for any increase in traffic. The landscaping will enhance the area and air, light and open space is preserved. A number of homes have been torn down and new two-families have been built in the area. The Master Plan talks about lower density zones becoming larger density zones. Combining lots for redevelopment is a better use of the land. This is based on the Coventry case in the MLUL.

Chairman Sugarman asked for questions from the Board.

Mr. Jovishoff stated the minimum lot area in the R6 zone is 3,000 sq. ft. per unit. A variance would still be required.

Mr. Bloch stated yes we have less at 2,700 sq. ft. and would still require a density variance.

Chairman Sugarman asked for questions from the public. Comments from the public.

Elaine Nissen, 265 Beverly Hills Road was sworn in and stated this is step one in an assault to the community and it is spreading towards Route 5. The property records for the Borough show that MIKSI, LLC owns contiguous lots near this proposed development for what appears to be a possible extension. This is a one family zone and the preservation of the environment needs to be preserved. The availability of vacant land in Fort Lee has shrunk and the ordinance still stands. The needs of the people must be met. We have a diversity of housing and this will change the visual character of our street. There is tremendous opposition to the application as presented.

Robert Tessaro, 238 Whiteman Street was sworn in and stated the applicant has the burden of proof and I don't believe it has been met for the "D" variances. There have been no real special reasons given for the "C" variances. Centerwest, another townhome development before this Board, was denied as you felt it was an intrusion to the R2 zone. The Board should deny this application.

Nina Levinson, 1560 West Street was sworn in and stated 10 to 15 years ago variances were given for hardship. I have heard none here on this application.

Linda Kochenberger, 265 Beverly Hills Road was sworn in and stated please reject the application. Our glorious trees will be gone. We need to preserve air, light and open space. Developers think nothing of removing the trees. This is personal, trees are family.

Constance Green, 261 Beverly Hills Road stated I have a handicapped daughter and my letter is not admissible to the Board. Please think of this detriment and my daughter's welfare.

Mohammad Erhain, 240 Whiteman Street was sworn in and stated we will ruin the quality of life. This will affect our schools, fire department, police department, etc. The excess in traffic is terrible for the town.

**ZBA – October 22, 2015 – Page Twelve**

Yanick Abergel, 236 Whiteman Street stated I am the developer and I do live in Fort Lee. I grew up here and I do care about the neighborhood.

Mr. Leibman gave his summation to the Board.

Chairman Sugarman asked for a motion from the Board to approve the application. No motion was made.

Mr. Makroulakis stated this is too big and I move to deny the application.

It was move by Mr. Makroulakis, seconded by Mr. Yoon and denied on a vote of 7-0 by members Silver, Joh, Makroulakis, Porrino, Liapes, Yoon and Sugarman to deny the application.

It was moved by Mr. Joh and seconded by Mr. Liapes to adjourn the meeting at 11:10 PM.

Respectfully submitted,

Barbara Klein, Board Secretary