Approved 11/14/18
BAK

TOWNSHIP OF NUTLEY
PLANNING BOARD MEETING MINUTES
Wednesday, October 17, 2018

A meeting of the Planning Board of the Township of Nutley was held on the third floor of the Township of Nutley Municipal Building, One Kennedy Drive, Commission Chambers. Adequate notification was published in the official newspapers of the Herald News, the Star Ledger and the Nutley Sun on December 14, 2017.

Roll Call

Ms. Castro – Present
Mr. Malfitano – Present
Mr. Contella – Excused
Mr. Kirk – Excused
Mr. Greengrove – Present
Ms. Kucinski – Present
Mr. Algieri – Present
Mr. Del Tufo – Excused
Mr. Arcuti - Present
Ms. Tangorra – Present
Mr. Kozyra – Present
Commissioner Evans – Excused
Mayor Scarpelli – Present

Meeting Minutes

The Meeting Minutes for October 3, 2018 were approved by the Board.

Invoices

An invoice for $800 for Barry Kozyra for his services and attendance at the Pre-Hearing Meeting on October 5, 2018 for the Kingsland Street Urban Renewal Phase I Final Site Plan Approval was approved by the Board.

Old Business

Application for Preliminary and Final Subdivision Approval with Variances for 212 Hancox Street

Robert Gaccione, Esq. appeared as counsel for Acme Properties, LLC, owner of 212 Hancox Street. He stated his client is requesting variances for the subdivision of the lot into two lots, demolition of the current one-family structure and the construction of new one-family and two-family dwellings. The property is zoned R2.

The following individuals were called as witnesses on behalf of Acme Properties:

Jon Kwapniewski, Licensed Realtor
107 Front Avenue, Lyndhurst, New Jersey

Mr. Kwapniewski is associated with Acme Properties and has had a professional and personal relationship with the shareholders, Eduardo and Christine Albuquerque. He named several property addresses in Nutley that he and Acme Properties have been associated with in the past.

Mr. Kozyra stated that Mr. Gaccione has provided Proof of Publication (A-1) and Proof of Mailing (A-2) satisfying notice requirements. Previous hearing dates have been adjourned at Mr. Gaccione's request and he has waived all time constraints under the statutes.

Public Comments

Nicholas Mocho (sp), 5 Duncan Place
Asked which street, Hancox or Duncan, the two new dwellings will be fronting.

Justin Scalfani, Architect
Guzzo & Guzzo Architects, 608 Ridge Road, Lyndhurst, New Jersey

After providing his schooling and work experience the Board accepted his credentials as an architect.

Mr. Scalfani described the existing structure that will be demolished. He described the proposed structure of the two new dwellings, the two driveways, landscaping and the building materials that will be used for both structures. He testified from the latest submitted plans (A-3). He opined that the proposed plans satisfied the substantial benefit criteria under the law and also satisfied the criteria for a hardship approval. He deferred as to some Board member questions suggesting the expert engineer and planner would best be able to answer them.

Mayor Scarpelli had a question about the 2-family garage and its use by both tenants and access to the garage for the second floor tenant.

Mr. Arcuti had a question regarding the height of the new structures as compared to the current surrounding dwellings.

Mr. Greengrove suggested that additional statements be added to the current plans.

Public Comments

Nicholas Mocho (sp), 5 Duncan Place
Asked about the driveway layout for the two new structures in comparison to his driveway.

William Stimmel, Planner and Engineer
P.O. Box 280, Rutherford, New Jersey

After providing his schooling and work experience the Board accepted his credentials as a planner and engineer.

Mr. Stimmel explained the existing conditions of the site, described the requirements for a R-2 zone and gave a brief description of the surrounding properties on the street and the neighborhood. He compared the lot sizes of the surrounding properties to the two proposed new dwellings as being larger than many other lots. He offered two exhibits (not previously submitted), a schematic of nearby properties (A-4) and a photo array (A-5). He explained that the proposed tandem parking in the garage complied with the zoning requirements. He spoke about the grading, height and retaining walls for each new structure; some of the retaining wall and other calculations provided were revised October 17, 2018. He discussed the variances that the Owner is requesting and how the structures will meet the rules and regulations of those variances. He opined that the application together with its seven (7) variances satisfied the positive criteria and the negative criteria of the land use laws and that the application also satisfied the legal requirements for hardship consideration.

He indicated that the Owner would stipulate to any requirements of the Township Forester (arborist). Mr. Stimmel acknowledged that the existing building required no variances and that a single one-family or two-family structure could be built on the property without a subdivision and without variances.

The Board asked questions about the elevation of the proposed buildings in contrast with the existing buildings and neighboring properties, driveway assess for both lots and garage access for the two-family dwelling, and also brought up possible drainage problems with both structures given the property slope. He stated that the Owner would stipulate to providing seepage pits under the driveways to meet drainage issues. He did not have knowledge as to when the lots in the area were plotted or the buildings constructed.

Public Comments

Nicholas Mocho (sp), 5 Duncan Place
Asked about the driveway layout for the two new structures and how they will affect the access to his driveway and street parking. He had questions about the drainage from the properties since they will be sitting higher up than the existing properties, which brought questions regarding the final height of the two dwellings and the excavation before building starts.

Another resident of Duncan Place had questions regarding all of the retaining walls that are planned.

Paul Ricci, Township Engineer

Mr. Ricci commented on his 10/12/18 correspondence and summarized the planning issues:

- He noted there are lot and house size and architectural inconsistencies with the surrounding properties, e.g., a proposed walkup is not the same.
- He asked why not propose two single family houses as that might be done with fewer and smaller variances
- He does not agree with the Owner's hardship testimony under the statute
- He questioned property setbacks and how they compared to existing buildings in the area
- He stated there needed to be discussions about the future landscaping and restoration of the landscaping

Mr. Ricci discussed how the two proposed houses do not fit with the existing structures in the neighborhood, even though the neighborhood is zoned R2. He also had questions about who will be responsible for the care/maintenance of the two-family home if both tenants are renting.

The Board had the following questions:

- Does a two-family sell better if it is side by side or up and down?
- How do the proposed houses' heights compare to the existing houses in the neighborhood?
- Would there be fewer zoning issues if two single-family houses were built instead of a single and a two-family?

Public Comments

Nicholas Mocho (sp), 5 Duncan Place
Is wondering how long the constructions process will take, what the work hours and days will be and what happens if any of the residents' homes or properties are damaged.

Mr. Gaccione summed up the Owner's application. He stated that there would be more character consistencies with the neighborhood dwellings than inconsistencies. He stated that the property has many difficulties but that his client is looking to build two attractive residences that will fit into the neighborhood. Mr. Gaccione feels that many of the issues raised tonight by the Board/public are not zoning issues. He closed by stating that his client has shown enough proof that this property has hardships that the application should be granted.

The Board members made various comments their showing concerns about:

- The height of the houses and the two-family dwelling's garage
- The application not satisfying the criteria for a subdivision with the requested variances or the criteria for a hardship approval
- The belief there could be a better thought out application/presentation for a subdivision
- There should have been a better description of what the homes will look like when finished
- Generally, that there was not enough evidence to prove a hardship to allow the proposed application

Board Roll Call – Upon a vote of the Board there was unanimous denial of the application and associated variance requests.

Ms. Castro – Yes
Mr. Malfitano – Yes
Mr. Greengrove – Yes
Ms. Kucinski – Yes
Mr. Algieri – Yes
Mr. Arcuti - Yes
Ms. Tangorra – Yes
Mayor Scarpelli – Yes

Additional Board Business and Discussion

The Board questioned whose obligation it is to deem a submitted application complete with regard to seeing proposed structures in a drawing to scale. Mr. Kozyra stated that he will speak to Mr. Berry and tell him that the Board proposes to reject any future applications without renderings of the proposed building construction in context with neighboring properties.

The meeting concluded at 9:34 p.m.

The next meeting is scheduled for Wednesday, November 14, 2018 at 7:00 p.m.