

April 15th, 2019
Hawthorne, NJ

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:54 p.m. in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

FLAG SALUTE

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

“Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same. “

ROLL CALL

Chair.....	Raymond Hallock
Vice Chair.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Scott Chamberlin
Board Member	Kevin Duffy
Board Member (Alternate #1).....	Victor Cuttitta
<u>Absent:</u>	
Board Member.....	Jack B. De Ritter
Board Member.....	Annamarie Sasso
Board Member (Alternate #2).....	Eleanor C. Wenzke

Also present was Board Attorney, James Delia, Boswell Representative Engineer, John Yakimik and 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 Gallagher, seconded by a Chamberlin. On a roll call vote, all voted yes. Motion Carried.

Hawthorne Press for Legal Notices: \$36.66
Notice of Meeting Cancellation: \$19.50

APPROVAL OF MINUTES

Chairman Hallock entertained a motion to approve the minutes as corrected of the February 25th, 2019 Meeting moved by Schroter, seconded by Chamberlin. On a roll call vote, all voted yes. Motion Carried.

APPROVAL OF 2018 ANNUAL REPORT

Chairman Hallock entertained a motion to approve the resolution for approval of the 2018 Annual Report of the Board of Adjustment, moved by Gallagher, seconded by Cuttitta. On a roll call vote, all voted yes. Motion Carried.

MEMORIALIZED RESOLUTION

Miguel A. Perez Jr. /Theresa Tontodonati, 175/177 Cedar Avenue (block104, Lot 22)

Chairman Hallock entertained a motion to Memorialize Resolution for approved applicant to construct a 2nd level addition and garage in the R-2 Single Family Zone, moved by Schroter, seconded by Duffy. On a roll call vote, all voted yes, with the exception of Hallock and Chamberlin who were not eligible to vote. Motion Carried.

OLD BUSINESS - None

NEW BUSINESS

Amedeo & Jahaida Moino, 10 Lee Avenue (block 229, Lot 25)

Architect, Frank Hall testified on be-half of his client explaining the applicant is requesting relief from requirement of Chapter 540 (Zoning and Land Use) to construct a two-story addition at the rear of a single family residence. Variances sought; a minimum side yard of 7.3 feet, where 15 feet is required, a combined side yard of 14.61 feet, where 40 feet is required and any other variances deemed necessary. Questions came up regarding the shared driveway and who owns that driveway. The Applicant explained he questioned this for about 9 years, nobody seems to know. He stated there are currently (3) residents who use it, himself and the neighbors to the right and left of him. Board Engineer, John Yakimik reviewed the survey and according to the survey he stated the perpendicular part of the driveway is not on the applicant property and when you swing around the rear of the property it is also not on the applicant's property. Discussion ensued. Board Attorney, Mr. Delia stated the Board will need to review his Title Policy and Deed before the resolution can be memorialized. Mr. Yakimik continued, explaining the calculation on impervious coverage is correct, however, with regards to drainage since the lots are so narrow the concern is the run-off to the adjacent properties, he would like to see some piping system and roof liters so this does not affect the neighbors. He asked the board to put as a condition on the resolution, subject to drainage approval. Board agreed.

Chairman Hallock opened the meeting to the public. He stated if anyone desired to be heard on this application, please raise your hand to be recognized, come forward to the microphone state your name and address.

Carol Navarro, 26 Lee Avenue

Ms. Navaro explained she is one of the residents who use that shared driveway; she has been their 35 years and still does not know who owns that easement. Ms. Navarro questioned whether the applicant dimension was going to infringe on the access of the driveway. Applicant architect explained the driveway is completely outside the area, therefore it will not infringe in anyway with her using the driveway.

Chairman Hallock entertained a motion to approve the above the application, moved by Gallagher subject with conditions; permission to go up that "right of way" and drainage approval by the Board Engineer, seconded by Duffy. On a roll call vote, all voted yes. Motion Carried.

Vish Dev Star, LLC, 415 Wagaraw Road (block 19, lot's 5,17,18,19,20 & 21)

Mr. Ralph Faasse, Esq, represents the applicant seeking variances and waivers to expand a presently existing non-conforming motor vehicle fueling facility (Sunoco) and to construct retail, commercial structure located on the corner of Lincoln Avenue and Wagaraw Road. The site is located in the (B-1) Zone and bordered to the north, south and west by the B-1 Zone, to the west by the 1 and 2 Family Residential (R-2) Zone and to the east by the Borough of Fair Lawn. Mr. Faasse introduced the managing member/owner of the LLC, Rakesh Naik who owns this property since 2003. He explained the current business is a convenience store and the service station which only provides automobile gas. The only difference regarding the convenience store change is they want to add a deli as well as six to eight tables. He purchased the two parcels that back-up to the gas station – in February of 2018 & in August of 2018. Applicant proposes the following improvements: a new gasoline service station with (6) pumps islands, kiosk, canopy structure (3,810 s.f.), one (1) story retail building (4,488 s.f.), parking lot improvement, fuel storage tanks, drainage improvements, site lighting, landscaping and refuse area. One of Boswell notes on his reports was the monitoring wells on the property. Applicant explained there use to be a Mobile gas station at one point and there must have been some sort of leak, due to that Philips 66 has installed wells which they continued to monitor quarterly and reports have been coming in clean. Hours of operation will be from 5am to midnight with 6 employees in the morning and 5 in the afternoon. The gasoline filling station, they have the option to schedule at any time and is the only time an 18 wheeler truck would enter the station going in on the Lincoln Avenue goes around the back fills the gasoline then makes a right onto Wagaraw Road. Any other deliveries are small trucks. The refuse will where it currently is, there is going to be two – 2-yard containers, one for garbage and one for recyclables. There will be no outside storage and any sale of items. Chairman Hallock questioned the height of the monument sign, applicant responded 15 feet and it will be 3-side with a clock and under the clock it will state “Hawthorne’s Established 1898”. Boswell Representative Engineer, John Yakimik asked as to the site demolition, will the site be operation during that time. Applicant responded the plan is to build the convenience store, then move it to the new site. Then the gas station will be closed for two-three months while the new one is installed. The convenience store will remain open during the transition.

Mr. Faasse called his next witness Mr. Riggs, applicant’s Engineer, who submitted to the board the approval certification work for the flood elevation from NJDEP. He went through Topographic Survey (which include the two parcels that were purchased), the submitted site plans and addressed Mike Kelly’s concerns in his report. The fuels pumps currently on west side are 13 feet off the property line and 18.6 feet from Wagaraw Road and the canopy currently is 9feet from Wagaraw Road. The two properties are 50 feet wide the other being 37 ½ feet wide. There is a driveway on the northern side of Lincoln Avenue, a driveway on Wagaraw Road and on the southwest. Due to this property being in a flood zone he had to establish the flood hazard elevation for this property. The ordinance requires two (2) side setbacks in the B-1 Zone, one being 10 feet and the total being 15 feet. They took the (5’) feet because they have a parking lot next door to them on the adjoining property. He believes there is no variance required as the ordinance calls for 10 foot minimum, 15 foot combined. Board Member Gallaher stated you still need two (2) side-yard variances not a combined variance. Discussed ensued, Chairman Hallock stated we will leave it up to the attorneys to discuss if there is a variance needed.

Mr. Riggs continued explain the following variances:

The Zoning Requirements B-1 Neighborhood Commercial for Retail Store as follows:

Description	Required	Proposed
Minimum Lot Area	5,000 s.f.	32,962 s.f.
Minimum Lot width		
Wagaraw Road	50 ft.	190.07 ft.
Lincoln Avenue	50 ft.	168.2225 ft.
Minimum Lot Depth	100 ft.	157.44 ft.
Minimum Front Yard Setback	10 ft.	48.2 ft.
Minimum Side Yard Setback One/ Both <i>(As previously stated attorney's to review if a variance is needed)</i>	10 ft. / 15 ft.	124.1 ft. / 129.1 ft.
Minimum Rear Yard Setback	25 ft.	27.4 ft.
Maximum Building Height Feet / Stories	25 / 2	21.5 / 1
Maximum Lot Coverage	50%	25.2%
Maximum Floor Area – Retail	5,000 Sq. ft.	<5,000 Sq. ft.
Maximum Floor Area – Total	7,500 Sq. ft.	4,488 Sq. ft.

Zoning requirements Article XX Public Garage & Gasoline Stations Section 540-150 to 540-156

Description	Required	Proposed
Minimum Lot Area	14,000 s.f.	32,962 s.f.
Minimum Lot Frontage		
Wagaraw Road	100 ft.	190.07 ft.
Lincoln Avenue	100 ft.	168.2225 ft.
Minimum Lot Depth	75 ft.	157.44 ft.
Minimum Street Setback – Building	45 ft.	59.0 ft.
Minimum Side Yard Setback	20 ft.	>20 ft. / --
Minimum Rear Yard Setback	15 ft.	>15 ft.
Maximum Building Height Feet / Stories	15 / 1	
Canopy		>15 Ft. / -
Kiosk		10.0 / 1
Maximum Building Ratio	5%	
Canopy only		11.6 %
Kiosk Only		0.1 %
Indicates Variance Condition		*Indicated Pre-Existing Non-conforming Condition

The proposal on Wagaraw Road was to use the existing driveways; however, after receipt of the Passaic County report, they are recommending that the driveway near the intersection be moved 20 feet further to the west, the traffic consultant will review and responded to both Howell Report & Passaic County report for next meeting. A recommendation from Vice Chairman Gallagher is to allow right turns only from the site. Adequate parking is provided, according to Faasse, with between 33-36 spaces on site where 23 are required. Chairman Hallock suggested the applicant present plans to the Bergen County Planning Board.

Mr. Faasse called his next witness traffic expert, Louise Logo who stated he already submitted a report, based on traffic counts done in February; however he has to modify the table to reflect 12 pumps, not six. He did state it is a congested intersection; there are queues that back up at peak hours, 7 to 9 am and 5:30 to 6:30 pm; however he will have an updated report for next meeting.

Chairman Hallock entertained a motion to continue this application to the May 20th, 2019 meeting, moved by Gallagher, seconded by Duffy. On a roll call vote, all voted yes. Motion Carried.

ADJOURNMENT

At 9:30 p.m. Chairman Hallock entertained a motion to adjourn the regular meeting, moved by Schroter, seconded by Chamberlin. All in favor, "Aye".

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT
WILL BE ON
~MONDAY, MAY 20th, 2019 ~
WILL BEGIN AT 6:45P.M.

Respectfully Submitted,
Joan Herve, Secretary