

Hawthorne Planning Board Minutes of January, 2009 Work Session

The January 6, 2009 meeting of the Hawthorne Planning Board was called to order at 7:30 P.M. by acting Chairman Walter Garner. After recital of the Pledge of Allegiance, acting Board secretary William A. Monaghan, III, Esq. called the roll. All members and alternates were present as well as Board engineer John M. Pacholek, P.E. and Board attorney/secretary William A. Monaghan, III, Esq. Mr. Garner announced that notice of the meeting had been published and posted in accordance with the Open Public Meetings Act.

The Board then conducted its annual reorganization. Walter Garner was nominated and unanimously re-elected to serve as Board Chairman. John Lane was nominated and unanimously re-elected to serve as Board Vice Chairman. A motion was made, seconded and unanimously approved to appoint Boswell McClave Engineering as engineer/planner for the Board for the calendar year 2009. A motion was made, seconded and unanimously approved to appoint William A. Monaghan, III, Esq. as Board attorney/secretary for the calendar year 2009.

1. With regard to the application of **TICO Collection, Inc.**, Pesach Brown, president, appeared on behalf of the applicant. After being sworn, he testified that the applicant proposes to lease a portion of the subject premises as a warehouse and small office for a handbag importing business. Two employees would be required for the operation of the business. Eight on-site parking spaces are available. No retail business would be conducted at the site and no exterior changes to the premises are proposed. A motion was then made by Mr. Ruta, seconded by Mr. Matthews and approved by a vote of 7-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney with the conditions that no retail business is permitted at the site and no outside storage of products or equipment is permitted.
2. With regard to the application of **Raymond-Rhodes R.E. Inc.**, no one appeared on behalf of the applicant.
3. With regard to the application of **G & S Financial Services LLC**, no one appeared on behalf of the applicant.

OLD BUSINESS

1. With regard to the application of **Realty Acquisition Group, LLC**, Brian Chewcaskie, Esq. appeared as attorney for the applicant for the commencement of the formal hearing on the application. In his opening statement, Mr. Chewcaskie noted that revised plans had been submitted in response to issues raised by Board members and the public at the work session review held on October 21, 2008. He outlined the applicant's proposal, which seeks site plan approval for the demolition of one of the existing industrial buildings on the premises and construction of a new building containing nine industrial condominium units. Approval of the application

would require the granting of several variances including building coverage and number of parking spaces.

Mr. Chewcaskie called as his first witness, Robert McNerney. After being sworn, Mr. McNerney testified that he is the managing member of the applicant, Realty Acquisition Group, LLC. The only other member is Lester Cioffi. Mr. McNerney advised the Board that the applicant is the contract purchaser of the subject property. Using an easel drawing marked as Exhibit A-1 and which corresponds to the topographical survey of the property dated July 23, 2008 and designated as SV-1 on the applicant's plans, Mr. McNerney described the two existing buildings on the site. The Hawthorne Spring building, proposed to be demolished, is the subject of NJDEP monitoring with environmental contamination under the building. The rear existing building, occupied by Minifold, would remain as is and be purchased by the present occupant as one of the industrial condominium units.

Using an easel drawing marked as Exhibit A-2, which depicts the proposed new building superimposed on the existing building, Mr. McNerney described the proposed new units as having drive-in loading doors rather than loading docks which would accommodate tractor trailers. He stated that Hawthorne Spring averaged ten tractor trailer deliveries per week and Minifold between two and eight tractor trailers per week. Mr. McNerney characterized the area as a mixed use neighborhood bounded by a railroad, an apartment complex and one and two family residences.

He indicated that seven of the proposed units would consist of 2,925 square feet, of which approximately 180 square feet would be utilized for office space. The end units would be slightly larger. Based on comments at the work session, the design was modified to provide a separation between the buildings. All of the spaces would be owned not leased and the buildings would have sprinkler systems. Mr. McNerney stated that the owner of the existing business at the site, Minifold, required twelve parking spaces for his business.

Mr. McNerney proposed to install new sidewalks to the end of Ninth Avenue, resurface Ninth Avenue from Douglas Avenue to the entrance of the subject site and move a fence with plantings onto the applicant's site.

He submitted that the proposal would result in the following benefits: decrease impervious coverage on the site, provide a more modern industrial building, move the building farther from Ninth Avenue, decrease tractor trailer traffic based on the types of potential occupants of the proposed units. He enumerated four potential prospects for the units: a leaded glass fabricator, a file storage business, an electrician and a mill worker. He acknowledged that the individual purchasers would be required to appear before the Planning Board for certificate of compliance plan review.

Mr. Chewcaskie called as his next witness Drake C. Stinson, P.E. After being sworn, Mr. Stinson testified that he is employed by Bertin Engineering, the applicant's engineer. He stated that he has a bachelor's degree in civil engineering and has been a licensed professional engineer in New Jersey since 1991. He has twenty-three years experience as a professional engineer and has appeared before numerous Boards. Based on his education and experience, he was accepted as an expert witness.

Using Exhibit A-3, an easel drawing containing a compilation of the applicant's landscaping and site plans, Mr. Stinson gave a detailed description of the applicant's proposal. Access to the site would be provided through one gate at the entrance to the property. A new six foot high fence would be erected but relocated to remove an existing encroachment. Landscaping islands would be provided. The proposed new building would be located farther from Ninth Avenue and the buildings would be separated to allow access behind the buildings which would also be located farther from the rear property line. The two lots on the site would be combined. The existing impervious coverage of 81.7% would be reduced to 79.5%.

Parking spaces would be located in front of each proposed unit as well as in a striped parking area. All parking spaces would be 10 feet by 20 feet thereby eliminating a variance requirement. The applicant proposes to construct a sidewalk and curb on the south side of Ninth Avenue with a turnaround area in front of the entrance to the site.

Mr. Stinson testified that the new building would have a sprinkler system and that adequate water supply and pressure are available for fire suppression.

With regard to stormwater management, he indicated that no collection system presently exists on the site and that the applicant proposes to pipe stormwater to a swale. Lengthy discussion then took place during which Board members expressed concerns to Mr. Stinson regarding ponding and possible runoff from the site onto adjoining properties. As a result of the discussion, Mr. Stinson agreed to reconsider provisions for stormwater management and submit revised plans for a detention area.

With regard to parking requirements, he stated that using Borough ordinance standards based on square footage, 131 spaces would be required. He then argued that based on standards promulgated by the Institute of Traffic Engineers (ITE), 54 spaces would be required for the size of the proposed uses. The applicant's plan provides 62 spaces.

Discussion took place regarding the Hawthorne Police Department report dated November 18, 2008.

After a brief recess, the hearing resumed at which time Mayor Goldberg advised Chairman Garner that he would recuse himself from hearing the application and left the dais.

Mr. Chewcaskie advised the Board that the applicant would obtain a traffic study regarding the impact of the proposed project on the surrounding area.

Vice Chairman Lane questioned Mr. Stinson regarding the stormwater management proposal and Board engineer John Pacholek requested that the applicant reconsider possible on-site detention. Mr. Stinson agreed to provide copies of the water pressure tests for fire suppression.

Mr. Chewcaskie called as his next witness Roger DeNiscia, P.P. After being sworn, Mr. DeNiscia testified that he has a graduate degree in Urban Planning and 44 years experience in planning and has been a licensed planner in New Jersey since 1972. He has testified before numerous Boards and courts in the State of New Jersey including the Hawthorne Board of Adjustment. He was accepted as an expert witness.

He presented Exhibit A-4, a display of six photos of the site taken by Mr. DeNiscia. He described the features of the site including irregular shape, limited street frontage and access, buildings immediately adjacent to a railroad and one of the buildings functionally obsolete. He noted other existing conditions including 80% impervious coverage, no layout of the parking area, contamination under one of the buildings and lack of separation of the site from the adjacent residential area.

He noted that the applicant's proposal would result in a number of improvements including a larger rear yard setback, greater front yard, improved parking layout, perimeter landscaping and garage door access to each unit without loading docks. He stated that the character of the site would be changed with significant benefits from the proposed project.

With regard to variance issues, he indicated that the proposed uses are permitted in the I-1 Zone. The proposal would improve setback conditions and reduce impervious coverage but not in conformance with the requirement. As to parking, he offered his opinion that the ITE standard utilized by Mr. Stinson is reasonable although not in compliance with Hawthorne's requirement.

He further offered his opinion that under the MLUL (C)(2) variance provision, the planning benefits of the applicant's proposal outweigh any substantial detriment based on the replacement of an obsolete building, improvement of building setbacks, remediation of site contamination and improvement of the site entrance and parking configuration. He argued that the granting of the required variances would have a positive effect on nearby residences and would have no negative impact on the zone plan since some of the non-conformities would be improved.

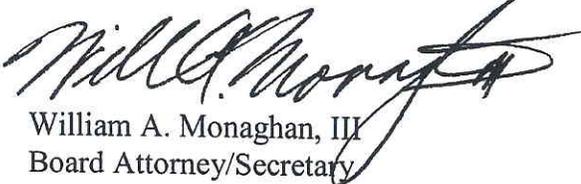
The hearing was then opened for public comment and questions but Chairman Garner asked that, given the lateness of the hour, members of the public limit their questions to Mr. DeNiscia's testimony since he may not appear at future hearings. Several members of the public raised issues regarding parking and possible future restrictions on parking along Ninth Avenue. One resident questioned the impact of the applicant's provisions for stormwater management.

Based on questions and issues raised by Board members and the applicant's agreement to provide a traffic study, a motion was made, seconded and unanimously approved to continue the hearing to the February 17, 2009 Board meeting. Mr. Chewcaskie noted the applicant's agreement to extend the statutory time period for Board action.

The meeting was then opened for public comment without response.

The meeting was then adjourned at 11:00 P.M.

Respectfully submitted,



William A. Monaghan, III
Board Attorney/Secretary