These minutes have not been approved and are subject to change by the public at its next meeting

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, December 15, 2009, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Martin, Mr. Capilli, Ms. Eisen, Mr. Walker, Dr. von der Lieth, Mr. Hoskins, Mr. Brennan, Mr. Flaherty

Absent: Mr. Raman

Also Present: John Ten Hoeve, Jr., Board Attorney
Brigette Bogart, Professional Planner
Lyn Beer, Secretary to the Zoning Board

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 20, 2009, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 21, 2009, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereat and by filing the said schedule in the office of the Borough Clerk.

FLAHERTY: There are no new cases for us to hear tonight. We do have a resolution for a pending case.

CASE: 09-8 Lot: 1 Block: 1517	Application of ***Park Ridge Properties, LLC,*** 27 Hawthorne Avenue, for Use variances for proposed use, F.A.R. and density, also parking building coverage and setback variances to construct an addition to existing building for 6 new dwelling units in a C.H. zone. Hearing begun October 20, 2009, continued November 17, 2009 and closed. Determination forthcoming this evening.

WHEREAS, PARK RIDGE PROPERTIES, LLC, a Limited Liability Company of the State of New Jersey (hereafter referred to as "Applicant"), being the owner of premises known as 27 Hawthorne Avenue, Park Ridge, New Jersey, said premises also known as Lot: 1 of Block: 1507 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the Zoning Board of Adjustment of the Borough of Park Ridge seeking permission to construct a multi-family dwelling on the site; and

WHEREAS, the property is located in the CH Commercial/Housing Zoning District as defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, the Applicant requires several variances and waivers in connection with the application, including a *Use* variance to permit a 10-unit apartment building in the Zone (use that is not permitted since multi-family residential housing is only permitted if located above commercial, ground floor uses); a building coverage variance; a side yard setback variance; a rear yard setback variance; a maximum dwelling width variance; a building height variance; a impervious surface coverage variance; and a maximum density variance; and

WHEREAS, Applicant is also seeking Preliminary Site Plan Approval in connection with the proposed building and various site improvements to be completed as part of the development application; and

WHEREAS, hearings were held before the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, duly convened on

October 20, 2009 and November 17, 2009 upon due notice as required by law; and

WHEREAS, various plans, sketches and documents were submitted to the BOARD, including a Preliminary Site Plan was submitted, prepared by R. L. Engineering, Licensed Engineers of the State of New Jersey, last revised on October 28, 2009 and architectural renderings and elevations prepared by Perry Petrillo, Licensed Architect of the State of New Jersey; and

WHEREAS, the BOARD has carefully considered all evidence and testimony offered both in support of the application and in opposition thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of aforementioned premises, premises currently improved by an existing multi-family apartment building and a garage having some history of commercial use or occupancy. The existing apartment structure is a two-story building front on both Madison Street and Hawthorne Avenue. The structure contains five residential rental units, with a small one-story commercial component to the building. Virtually the entire site is covered with impervious material. The building is in a state of substantial disrepair, and is in need of significant renovation. There is no effective landscaping on the site. There is no delineated parking area on the site. The site has also been the subject of a number of complaints by residents in the area.

2. Applicant seeks to renovate the existing structure, incorporating the building into a new multi-family edifice that will contain six new residential units, five of which will be affordable housing units. The proposal calls for the elimination of one of the currently existing apartments, and the construction of six new residential units resulting in a ten (10) unit, multi-family apartment building. The new units will include one studio unit, two 1-bedroom units, two 2-bedroom nits and one 3-bedroom unit.

3. As set forth on the plans submitted to the BOARD, the proposal calls for the complete renovation of the exterior of the existing structure and the construction of an aesthetically appealing, new multi-family apartment structure. The existing apartments will blend into the new structure, with the resulting building combining the old and new apartments. The garage currently located on the site will be removed. The entire structure will have new facades, new windows and new doors. One of the existing two-bedroom units will be modified and reduced in size to create a studio apartment. As discussed in more detail below, the proposal also calls for substantial additional site improvements.

4. While there are several existing non-conforming aspects to the current structure and the existing lot, the proposal will also require the following additional variances:

    a) A use variance to permit the construction of a multi-family structure that does not provide for commercial use below the residential use;

    b) A building coverage variance. The existing structure covers 30.03% of the site rather that the required 25%. The new structure will cover 39.5%.

    c) A building height variance, actually a preexisting condition since portions of the current structure are 36 feet high, rather than the 35 feet permitted by Ordinance;

d) A dwelling width variance since the proposed dwelling will span 89.79% of the lot width rather than the 30% permitted by Ordinance. The new structure, however, will reduce an existing nonconformity since the current dwelling width is 98%.

e) An impervious coverage variance since the proposed impervious coverage is 86.68% rather than the 85% permitted by Ordinance. Once again, however, this variance will reduce an existing nonconformity since the current impervious coverage is 91.21%.

f) A density variance since the combined dwellings will result in a density of 45.02 dwelling units per acre rather than the 12 unit per acre limit required by the Ordinance.

g) A parking variance. The plan will provide 13 spaces. Residential Site Improvement Standards require 19 parking spaces.

The proposed development will also continue or reduce several existing nonconforming conditions including the following:

a) Front yard encroachment on Madison Street (1.3 feet) and Hawthorne Avenue (2.1 feet) will continue rather than the 15 feet required by the Ordinance.

b) Rear yard encroachment (1.8 feet) rather than the 15 feet required by the Ordinance.

Finally, Applicant requires a waiver from the required driveway aisle width. The proposed driveway aisle on the site will be 19 feet rather than the 24 feet required by the Ordinance.

5. As indicated, Applicant seeks to make substantial site improvements. The plan calls for a completely new drainage system, a system that will replace a currently uncontrolled drainage situation that permits all drainage to simply run off site. The proposed drainage system will collect all roof and parking run off and direct the water to a confined system that includes two, on-site seepage pits. Richard Eichenlaub, the Applicant's Engineer, testified that the drainage system would constitute a substantial improvement to the existing condition and that the drainage system would accommodate a 25-year storm event.

6. In addition, delineated and curbed parking will be provided where no defined parking currently exists. An unsightly and nonconforming garage will be removed. A handicapped parking space will be provided where none currently exists. Substantial lighting improvements will be made, including the installation of "Park Ridge Lanterns" as shown on the Site Plan. Currently, no adequate lighting is provided on the site.

7. The project further includes landscaping and related site improvements. Foundation plantings have been provided. An enclosed dumpster area will be constructed. New sidewalks will be constructed including dropped curbs for handicapped access. Fencing will be provided along the portion of the site that abuts the railroad property.

8. Applicant has also provided substantial modifications to the proposed plan in response to concerns raised by BOARD members and BOARD professionals. Applicant modified elevations to include gables and altered roof lines to create a more articulated appearance to the structure. The Applicant modified the proposed fence to provide fencing identical to the existing fencing on the easterly side of the railroad, including a gate to provide access to the property. Additional lighting was provided. Additional sidewalks were provided. Additional landscaping was also provided.

9. The BOARD finds that the proposed development will provide substantial benefits to the Borough. Several of the proposed benefits were noted in a report provided to the BOARD by the Borough Planner, Brigette Bogart. Ms. Bogart noted that the site is in dire need of redevelopment. She also stated that the Applicant's project will result in a substantial benefit to the surrounding area by virtue of the aesthetic improvements to the structure and significant site improvements, and that the building's architectural design is consistent with the existing residential structure. The Planner further opined, however, that the most significant factor that must be considered by the BOARD is that the plan calls for the creation of deed restricted, low and moderate income dwelling units that enable the Borough to meet several COAH obligations, finding that the provisions of these units constitutes a "significant benefit" that should be considered by the BOARD. Finally, the Planner found that the location of the structure, close to available mass transit, mitigated negative impacts that might result from the necessary parking variances.

10. The BOARD further finds that while the CH Zoning District requires commercial uses on the ground floors of structures with residential structures above, the site in question is not likely to ever by developed in compliance with the applicable use requirements. The Applicant has testified that the use is inappropriate for the site. The Planner has confirmed this position.

11. The BOARD is also cognizant of the fact that the Applicant had submitted a prior application for a multi-family structure, an application that was denied by the BOARD. The BOARD had previously concluded that the proposed structure was too large for the site, and that the negative aspects of the application far outweighed any benefits. In response thereto, the Applicant has substantially modified the proposal, reducing the size of the proposed new structure, submitting an application the BOARD finds to be in response to the concerns raised by the prior application.

12. The BOARD thus finds that the Applicant has satisfied the positive criteria test required to grant the use of (d) variances outlined above. The proposed affordable housing units constitute an inherently beneficial use. The BOARD is thus required to determine whether there are negative aspects to the development, otherwise stated, whether the development can be granted without substantial detriment to the public good and whether the application can be granted without substantial impairment to the Borough Master Plan and Zoning Ordinance. If the BOARD concludes that there are negative aspects to the application, it must weigh the benefits afforded by the application against the negative impact and can only deny the application if it concludes that the negative impact outweighs the positive benefits. Additionally, if the BOARD finds that there are negative aspects to the application, the BOARD is obligated to determine whether any modifications can be made to the plan to ameliorate the negative impact.

13. The BOARD finds, as noted by the Borough Planner, that there are benefits provided by the application and that the benefits are substantial. The project will provide several affordable housing units and enable the Borough to satisfy a substantial portion of its COAH obligation. The Applicant has also shown that the project will effectuate the intents and purposes of the Municipal Land Use Law. The development will provide substantial drainage, lighting, aesthetic, parking and other site improvements.

14. The BOARD further finds and concludes that the negative aspects of the application are minimal, and that most of the negative aspects result from existing conditions. While several bulk variances are required, most of the variances are either existing lot size nonconformities. The additional bulk variance that are required are not significant. The BOARD is also cognizant of the fact that the proposal will actually decrease some existing

nonconformities including impervious surface coverage, the rear yard encroachment and dwelling width.

15. The BOARD thus concludes that the Applicant has satisfied statutory requirements for the (d) variances aspects of the application, including the use and density aspects of the project. The BOARD further finds that the Applicant has provided sufficient proofs for the grant of the requested (c) or bulk variances. The grant of the variances will advance the purposes of the Municipal Land Use Law for reasons set forth above. The benefits achieved will substantially outweigh any potential detriment. The project, when completed, will constitute a significant improvement to the entire neighborhood. An unsightly structure, with undefined parking and traffic flow, with no onsite drainage, with virtually no landscaping and with an arguable illegal garage, will be replaced with an attractive building having defined parking, onsite drainage and landscaped improvements.

16. The BOARD'S findings, outlined above, are based, in large part, on the Applicant's agreement to provide various specific modifications and site improvements raised by BOARD members and Board professionals. The BOARD specifically concludes that its findings with regard to the Applicant's compliance with statutory criteria for both the required (d) variances and (c) variances are based upon the Applicant's compliance with these specific modifications and site improvements, all of which are included herein below as conditions of approval.

NOW THEREFORE, BE IT RESOLVED that the BOARD hereby grants Applicant's requested variances, waivers, and preliminary site plan approval to permit the proposed development subject to the following terms and conditions:

A. Applicant shall submit a revised site plan conforming to all modifications required by the BOARD, the Borough Planner and the Board Engineer as set forth on the record during both hearings on the application.

B. The Applicant shall also be required to execute a Developer's Agreement in a form acceptable to the Zoning Board of Adjustment and the Mayor and Council of the Borough of Park Ridge, said Agreement to be prepared by the Board's Attorney at Applicant's cost and expense.

C. The Applicant shall be required to furnish performance bonds, maintenance guarantees and cash deposits in accordance with the Subdivision and Site Plan Review Ordinance of the Borough of Park Ridge in amounts to be determined in accordance therewith and upon consultation with the Board Engineer.

D. All improvements to be completed in connection herewith shall be in accordance with all development application proceedings and evidence submitted to the Zoning Board of Adjustment and in compliance with the requirements of all Borough Ordinances and other requirements as may be imposed by the Board Engineer.

E. Applicant shall be required to pay all professional fees, escrows and bonds in a timely manner. The Applicant shall also be required to pay any fees that may be required by the Development Fee Ordinance of the Borough of Park Ridge.

F. All utility connections and other related improvements shall be subject to review and approval by appropriate Borough utility departments.

G. Applicant shall comply with any requirements of the Borough Fire Department.

H. Applicant shall take any and all actions required to insure that the affordable housing units constructed as part of the development comply with all COAH requirements and that the Applicant make any changes or modifications required by COAH to insure that the affordable housing units are accepted by COAH as units that will be applied to the Borough's affordable housing obligations. The within approval is specifically contingent upon the Applicant's construction of five, new affordable housing units having bedroom mixes and income limitations in compliance with COAH requirements. Applicant shall be required to create deed restrictions for these affordable housing units, with the form of all such deeds acceptable to COAH, the BOARD Attorney and the Borough Attorney.

I. Applicant shall be required to complete and/or comply with the following specific conditions, whether or not specifically included in the Final Site Plan provided to the BOARD.

1) All conditions and requirements set forth on the reports of the BOARD Engineer dated November 16, 2009 and October 15, 2009.

2) The proposed dumpster shall be enclosed on all sides and appropriately gated.

3) Applicant will provide Belgian block in all areas as recommended by the BOARD Engineer.

4) Applicant shall provide a Phase I environmental audit acceptable to the BOARD Engineer and Borough Planner prior to the execution of any developer's agreement and prior to the commencement of any site improvements.

5) Applicant shall be required to maintain the proposed seepage pits, providing semi-annual cleaning of the pits by qualified entities.

6) Applicant shall include provisions in tenant leases providing that no more than one automobile may be parked on the site by the occupants of any individual unit.

7) Applicant shall provide "Park Ridge Lanterns" for street lighting along both Madison Street and Hawthorne Avenue.

8) Fencing adjacent to the Railroad property shall be identical to the existing fencing along the easterly side of the Railroad property.

9) Applicant shall cooperate with the Borough Planner in negotiating a lease or easement agreement with the Railroad that will permit the Applicant to gain access to the Railroad property for the purpose of constructing a sidewalk (at the Applicant's expense) on the Railroad

property along the entire property line of the Applicant's property and to locate the proposed fencing on the Railroad property. In the event the Applicant and Planner cannot secure said easement or lease agreement, with the understanding that the Applicant shall provide a good faith effort to secure said easement or lease, Applicant shall modify the existing plan to construct the fence solely on the subject property and to provide a sidewalk along the edge of the Railroad property but located on Applicant's property.

10) In the event the Applicant and Planner are able to secure an easement or lease agreement with the Railroad, Applicant shall be required to install benches on the Railroad property, said benches to be acceptable in design to both the Borough Planner and the Railroad.

11) Applicant shall be required to install an irrigation system for all proposed plantings on the site.

The resolution was offered by Mr. Martin and seconded by Mr. Hoskins.

ROLL CALL:

Ayes: Mr. Martin, Mr. Walker, Dr. von der Lieth, Mr. Hoskins, Mr. Brennan, Mr. Flaherty

Abstain: Mr. Capilli, Ms. Eisen

CASE: 09-9 Lot: 16 Block: 1201	Application of ***Gail and Gerry Matthews,*** 41 Fourth Street, for variance to widen driveway to residential house in an R-15 residential zone. Application to be withdrawn…applicant asked to send letter so notifying.

BEER: She hasn't said that she withdraws. Should I just close it out? I have written her and I have asked her. I have spoken to her. I have written her saying to just drop me a note saying that you would like to withdraw.

TEN HOEVE: Did she submit a new plan yet?

BEER: No.

TEN HOEVE: Probably don't do anything with that yet. Let's just carry it just to see what happens.

BEER: Okay.

NEW BUSINESS:

Inherently Beneficial Uses Legislation passed by Governor.

Amended Floor Area Ratio passed by Mayor and Council.

CORRESPONDENCE:

N.J. League of Municipalities re: December 2009 – distributed

N.J. Planner re: November 2009 - distributed

APPROVAL OF MINUTES:

None

APPROVAL OF VOUCHERS:

Azzolina Feury, PE	
37 Park Ridge, LLC	$1,380.00
John Ten Hoeve, Jr., Esq.	
Park Ridge Properties, LLC	747.50

The Chairman entertained a motion that the BOARD recommend payment of the vouchers to the Mayor and Council, subject to receipt of funds. So moved by Mr. Brennan and seconded by Dr. von der Lieth.

ROLL CALL:

Ayes: Mr. Brennan, Mr. Capilli, Ms. Eisen, Mr. Flaherty, Mr. Hoskins, Mr. Martin, Dr. von der Lieth, Mr. Walker

Abstain: None

ANYONE IN THE AUDIENCE WISHING TO BE HEARD:

There was no one in the audience wishing to be heard.

DISCUSSION OF NEW APPLICATIONS:

There were no new cases to be discussed.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Brennan and seconded by Mr. Walker, the meeting was adjourned at 8:15 pm. Carried unanimously.

Respectfully submitted,

Margot Hamlin,
Transcriber