

****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, November 20, 2012, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Sandler, Mr. Sigilitto, Mr. Walker, Mr. Hoskins, Mr. Capilli, Mr. Flaherty, Mr. Brennan

Absent: Dr. von der Lieth, Mr. Raman

Also Present: William Rupp, 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 17, 2012, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 18, 2012, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

NEW CASES:

<u>CASE:</u> 12-13 <u>Block:</u> 2103 <u>Lot:</u> 21	Application of <u>Gregory and Gina Mathis</u> , 15 Parkview Drive for Floor Area Ratio and side yard variance to construct addition to an existing house in an R-20 residential zone.
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WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

- Item 1 is the application dated 10/25/2012.
- Item 2 is certification of service dated 10/31/2012.
- Item 3 is legal notification dated 11/09/2012.
- Item 4 is proof of payment of taxes (not received).
- Item 5 is the deed dated 8/29/2012.
- Item 6 is an existing conditions survey dated 8/15/2012.
- Item 7 is elevations dated 10/24/2012.
- Item 8 is 4 undated photographs undated.
- Item 9 is Floor Area ratio calculations undated.
- Item 10 is Board secretary letter dated 10/31/2012.
- Item 11 is Board secretary letter dated 11/01/2012.

CAPILLI: Before we begin here, Mr. Rupp will swear you in.

RUPP: Will you both be testifying? Okay. Will you please raise your right hand? Do you swear or affirm that the testimony that you are about to give before this Board is the truth, the whole truth, and nothing but the truth, so help you God?

MATHIS: I do.

MATHIS: I do.

RUPP: Please state your name and address for the record, and spell your last name?

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MATHIS: Gina Mathis, m-a-t-h-i-s.

MATHIS: Greg Mathis, m-a-t-h-i-s.

CAPILLI: Mrs. Mathis, or Mr. Mathis, whoever wants to take this, do you want to take us through what you plan to do?

GINA MATHIS: Sure, basically, above the garage, we would like enclose that. It doesn't aesthetically look very nice and water sits on it and the railing is not very safe. There is a door with a drop down to get out there, and we purchased the house and we would like to just enclose it. We are not going outside the footprint of the home. We just want to make an area that looks similar to the roof line, right above that. I have enclosed some pictures of the water that sits there, the back end of the house, and if you look close, you can see the door up there.

Basically that I the issue on that.

CAPILLI: Has anybody had a chance to go and look at this? It is a tight space and I see they are over floor area ratio.

BRENNAN: Would the roof line just continue the height of the home, like the existing roof line?

GREGORY MATHIS: It would be actually a little bit lower than the existing roof line. It would be the shape of the existing roof line but it will be down about a foot or so.

BRENNAN: Okay, so the proposed extension is not deeper or wider or higher?

GINA MATHIS: No. We are going on top of that.

CAPILLI: It just happens to put you at 34%.

GINA MATHIS: You know, as my architect said that the zoning was done so long ago, and we are just in a situation where it hasn't changed. It is a 60 X 100 lot. Again, we are not going outside the footprint of the home. As far as I am concerned, I don't like the danger of it. I don't like the entrance coming in from the upstairs area and going out to it.

BRENNAN: That is zoned, right now, that for you to be able to go out there and use that?

CAPILLI: Is it functional to literally step out on to that roof and use it.

GINA MATHIS: I can't imagine that, because we don't want to step out on it.

GREGORY MATHIS: The door is there, but the step down is like this would be the bottom of the door and the floor would be the area of the deck above the garage and they have railings on it. I don't know if they every used it or not.

GINA MATHIS: Mrs. Belnay who owned the house, she built the home, and she died in her 90's. There was only one owner to the home. The home is as original as the day that she built it. Nothing has been done to the home. We are only trying to aesthetically make the home look nicer, bring some character to the home without infringing on anybody. All of our neighbors love us. They are supportive of us.

BRENNAN: They are not exceeding the floor area by a whole lot, and they are not increasing the footprint or height. It seems like something that would be easy to support in my opinion.

CAPILLI: Mrs. Bogart do you have anything.

BOGART: No.

CAPILLI: Is there anyone else?

WALKER: The structure can support the second story?

GINA MATHIS: Correct, that is why we had the architect make sure of that.

LUDWIG: Could we just talk about your plans for the rest of the second floor of the house, so that we have an idea of what your plan encompasses?

GINA MATHIS: The second floor of the house unusually is perfect to justify to put a couple of walls up and make a couple of bedrooms, without doing anything. It is an unusual height in there. So, I would like to add the bedrooms and possibly a bath to it. It is empty right now.

LUDWIG: Oh, it is not currently living area?

GINA MATHIS: It is not, although, she had bed everywhere, and things everywhere up there as if they were living there, but, maybe not to your liking.

LUDWIG: I am only just asking for the record. I am not challenging anything.

GREGORY MATHIS: It is an unfinished area.

RUPP: Is it heated?

GINA MATHIS: No. It was not heated.

RUPP: Okay, unheated. Do you have sheetrock on the walls?

GINA MATHIS: No, it did not.

LUDWIG: It helps us to clarify your floor area calculations.

CAPILLI: Is there anyone else with any questions or concerns? I think we are good. You can call Mrs. Beer in the morning.

MATHIS: Thank you for your time.

CAPILLI: Are we carrying the DiBella case?

BEER: Yes, we have an extension in time without reservation, an unlimited extension of time. They thought that they would be in by December.

RUPP: I think for the benefit of our audience mention just for the record the next date that they will be carried to so they don't have to republish.

CAPILLI: The next meeting will be December 12, 2012.

CASE: 12-12 Block: 1405 Lot: 10	Application of <i>Pach Food Services, LLC</i> , 168 Kinderkamack Road for installation of commercial sign that does not meet the requirements of the ordinance regarding uniformity. Hearing held October 16, 2012. Resolution forthcoming this evening.
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RUPP: This is the application that involved signage in the shopping center for the Pappa John's Pizza. It is a little bit of interesting application. There are actually 3 concepts involved in this application. Some of the signs, essentially were proposed to just replace the sign portion, the logo portion, on an existing sign, in which case, that was governed by the provisions of your ordinance and the state statute relating to the continuation of nonconforming uses of structures. To the extent that those signs were in

any way in violation of the ordinance. I think that they were all lit, and I think that there was a limitation on the lighting of hanging signs. They are continuing that and therefore that was governed by that provision saying that you can continue the nonconforming sign.

There was a second provision where they wanted to replace a lit hanging sign and install a lit wall sign above that. Wall signs could be lit, however, it was higher than the other signs and one of the provisions of the ordinance said you are not supposed to make it higher than the other signs. That is provided by the granting of a variance based upon C-1, essentially hardship based upon the peculiar circumstances of the structure. In this case, the portion of the structure that they wanted to put the sign on, was open on the bottom, because it was a walkway. So, if you are going to place a wall sign, there was no other place to put and therefore, that granted a variance under C-1 for that based upon the nature of the structure.

The most interesting part of this application was the provisions relating to the logo itself. That to the extent variances were required for that, and again it gets a little bit complicated. That was the one that deals with a similar style and appearance. What I did, was I looked at the Master Plan. I sighted the provisions of the Master Plan, that encourage the commercial development and the viability of the commercial development and essentially to the extent that a variance was granted under that, again for the purposes of this argument, we assume that a variance was required, it was granted under C-2, which is the purposes of the zoning. Those are the 3 provisions of the resolution relating to what is essentially 3 signs, a hanging sign, a wall sign, and then there was a sign on an entrance where all the uses were listed.

CAPILLI: We do have a resolution for this?

RUPP: Yes. Your sign ordinance, I should tell you again, I think the Planning Board talked about this just the other day, was kind of like it was fixed in bits and pieces, so there are a multitude of provisions, that you have to look at. It is a little bit complicated to do that. They are all set forth in the resolution, all the various provisions.

FLAHERTY: Bill, wasn't there an issue about 2 different ordinances? One being more recent than another, and another in an other shopping center across the street, not being subject to it for some reason, but did have national logos? It was also a hardship on them because other places in a similar area, although not the same area, did have the national logo?

RUPP: Well, there were other uses. By enlarge, someone else having a nonconforming sign is probably not grounds in and of itself, for a variance. That is why I sighted the provisions of the Master Plan, which actually were furthered by this application. That is the argument that was made.

I did point out that there were other signs of similar logos in the vicinity. I think that some of those were not in the NB Zone.

BOGART: These were more lenient.

LUDWIG: The whole thing confuses me, but I think we got to the right place.

WHEREAS, PACH FOOD SERVICES (hereinafter referred to as "Applicant"), being the contract lessee on behalf of Papa John's Pizza of premises located at 168 Kinderkamack Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 10 in Block 1405 on the Tax Assessment Map for the Borough of Park Ridge, applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking a variance from the provisions of the zoning ordinance regulating signs to permit the installation of a wall sign, a hanging sign and a pylon sign containing the corporate logo and colors of Papa John's Pizza; and

WHEREAS, the premises are located in the NB Neighborhood Business Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, on October 16, 2012;

WHEREAS, the BOARD has received the exhibits and documents with respect to this application as more particularly set forth on the list attached hereto and made part hereof; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony submitted in connection therewith;

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 contract lessee on behalf of Papa John's Pizza of certain storefront premises located at 168 Kinderkamack Road, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 10 in Block 1405 on the Tax Assessment Map for the Borough of Park Ridge, owned by Artdor Realty and currently improved with an existing strip mall. The premises are located within the NB Neighborhood Business Zoning District.
2. Applicant has applied for a variance from the provisions of the zoning ordinance regulating signs to permit the installation of a wall sign, a hanging sign, and a pylon sign containing the corporate logo and colors of Papa John's Pizza.
3. Section 101-35 of Article 10 of the Zoning Ordinance, respecting general regulations for signs, provides, in part, that "L. a consistent design should be created throughout a development where there will be more than one sign provided. All signs shall have the same size letters, material, lettering style and color." Section 101-39, respecting wall signs, provides, in part, that "F. Signs within multi-tenant developments shall maintain a consistent design theme throughout pursuant to S101-41.2 of this article. They shall be a consistent height above grade." Section 101-41.2B, respecting shopping centers and other multi-tenant developments, provides, in part, that "a sign plan shall be submitted to the approving authority for approval" and that "a unified design theme shall be provided which integrates the architectural design, materials and colors of the primary structure, façade signs, freestanding signs, landscaping and lighting fixtures." Section 101-41.23 provides, in part, with respect to signs in the NB District that "all freestanding signs shall not be larger than six square feet, with a maximum height of five feet... the material and colors of the structure it serves... and that internally illuminated freestanding signs are prohibited." Moreover, Section 101-58.21E of Article XIIC of the Zoning Ordinance, pertaining to signage within the NB Neighborhood Business Zoning District, provides, in part, "(1) wall signs may be between 8% and 12% of the wall area at street level for the use it is advertising..(2) the maximum mounting height to the top of the sign area shall be 15 feet...(3) lots fronting on two or more streets are permitted signage along each street frontage, but the signage cannot be accumulated and used on one street only...(4) for multi-tenanted buildings, the signs shall be designed with a uniform area and height...(7) hanging signs may not have an area of more than two square feet...(8) the wall sign for an establishment with a hanging sign may not be greater than 8% of the total wall area at street level for the store that it is advertising...(9) hanging signs may not be internally illuminated.
4. The proposed signage consists of an internally illuminated hanging sign measuring 2 feet by 10 feet, an internally illuminated wall sign measuring 2

feet by 5 feet and an internally illuminated pylon sign measuring 2 feet by 8.5 (within an existing free standing internally illuminated sign measuring (above the brick slab) 8.5 feet by 11.5 feet, all containing Papa John's Pizza corporate logo of red, white and green. The hanging sign will be of the identical dimensions of the previous hanging sign for the prior tenant, "The Cigar Emporium," above the walkway along the front façade of the store. The wall sign will be installed on a side façade of the building above the covered walkway. The previous sign for The Cigar Emporium was an internally illuminated hanging sign installed below the building side façade and above the walkway and measuring the same size as the proposed wall sign of 2 feet by 5 feet.

5. The Applicant failed to provide dimensions of the front façade of the store or the side façade of the building or the height of the proposed wall sign.
6. The BOARD nonetheless finds, on the basis of the photographs and graphics in evidence and the testimony that the proposed hanging sign and the proposed pylon sign are identical in type, location and dimensions to the lawfully permitted pre-existing signs. Accordingly, except for the issue of uniformity respecting color and design, the BOARD finds that the proposed hanging sign and pylon sign are permitted under the provisions of N.J.S.A. 40:55D-68 and the provisions of Section 101-41.4 of the Zoning Ordinance respecting nonconforming structures and signs.
7. With respect to the side façade of the building, the Applicant proposed to replace the lawful pre-existing internally illuminated hanging sign with an internally illuminated wall sign of the same dimensions. By reason of the change in the type and location of such sign, the BOARD finds that the provisions on N.J.S.A. 40-55D-68 and the provisions of Section 101-41.4 of the Zoning Ordinance respecting nonconforming structures and signs are not applicable. Due to the failure of the applicant to provide the dimensions of the side façade of the building, the BOARD is unable to calculate the percentage of coverage. Notwithstanding the foregoing, by reason of the extraordinary and exceptional situation uniquely affecting the side façade of the building upon the premises, in which a substantial portion of such façade is an open covered walkway, the BOARD finds that the strict application of the percentage sign coverage provisions and uniform height requirement of the ordinance would result in peculiar and exceptional practical difficulties to, and undue hardship upon the Applicant. Moreover, the BOARD finds that by reason of the replacement of the existing hanging sign with the proposed wall sign of the same dimensions, a variance from the percentage sign coverage limitations and the uniform height requirements can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance, subject to the conditions that the mounting height to the top of the sign area shall not exceed 15 feet.
8. With respect to the color and design of the proposed signage, the BOARD finds that national chain retail establishments rely upon distinctive logo to assist patrons in identifying and recognizing their products and locations. Without the ability to display such nationally identifiable logos, national chain retail establishments are oftentimes unwilling, as in this case in the within matter, to locate and open retail establishments where such logos may not be displayed. The unwillingness of such national chain retail establishments to locate in local downtowns due to such restrictions may result in economic stagnation, decreased employment opportunities, increased vacancies and the development of blighting conditions.
9. The Zoning Ordinance provides that the purpose and intent of the NB Neighborhood Business Zoning District is to encourage the redevelopment of the properties included in the district in a manner which is consistent with and in furtherance of the 2009 Borough of Park Ridge Comprehensive Master

Plan, to encourage a more pedestrian-oriented commercial district and allow for a mixed use development which incorporates a variety of retail and service establishments. The Land Use Element of the Master Plan, includes within its commercial goals and policies, to enhance the Kinderkamack Road commercial area between Park Avenue and the Borough of Montvale, through improved storefront and streetscape standards. Among its economic development goals and policies is to enhance and encourage the establishment of new entrepreneurial businesses, reduce unemployment, provide year-round employment opportunities and enhance the ratable base of the Borough by encouraging compatible, industrial, commercial, office and retail facilities to locate or expand to Park Ridge.

10. By reason thereof, the BOARD finds that the zoning purpose of the Municipal Land Use Act to encourage the appropriate use of development of all lands within the State in a manner which will promote the public health, safety, morals and general welfare would be advanced by a deviation from the zoning ordinance requirements respecting the design and color of signs so as to permit the display of the nationally recognized logo of Papa John's Pizza and that the benefits derived from the proposed deviation outweighs any negative impact therefrom pursuant to N.J.S.A. 40:55D-70 (c)(2), the flexible (c) provisions of the Municipal Land Use Law.
11. The testimony adduced at the hearing demonstrated that within the immediate vicinity of the subject premises, various national chains, including Burger King, City Bank, Dunkin Donuts, A&P, and Staples, as well as a variety of local establishments, had signs displaying unique logos, of various non-uniform designs and colors.
12. By reason thereof, and by reason of the purpose for the establishment of the NB Zoning District and the above referenced commercial and economic development goals and policies contained within the Land Use Element of the Master Plan, the BOARD finds that a decision to grant a variance to permit the use of the nationally recognized Papa John's Pizza logo for the signage of the subject premises will not result in any substantial detriment to the public good nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70(c), the BOARD does hereby grant the Applicant's requested variances from the signage requirements of the zoning ordinance so as to permit the use of the Papa John's Pizza logo on the proposed internally illuminated hanging sign, the use of the logo and the installation of the proposed internally illuminated wall sign on the side façade of the building, subject to the condition that the mounting height to the top of the sign area shall not exceed 15 feet, and the use of the logo on the pylon sign in the existing internally illuminated freestanding sign, as more particular set forth in this resolution and as shown on the plans submitted to the BOARD.

EXHIBITS

01. Application – 9/17/12
02. Certification of service – 10/1/12 & 10/3/12
03. Legal Notice – 10/25/12
04. Payment of Taxes – 9/11/12
05. Lease – 9/12/12 – (5 years)
06. Survey – 8/23/12
07. Site Plan – 7/18/1984
08. Photographs – 4 photos undated
09. Sign sizes – 9/12/12
10. Corporate letter – 8/30/12
11. Papa John's Sign Manual – undated
12. 4 colored renditions of signs – undated

13. 8 black and white renditions of signs – undated
14. Plumbing plan – 7/18/1984
15. Letter from Applicant's attorney – 10/3/12
16. Authorization from Property Owner – 10/3/12
17. Applicant's attorney package – 10/3/12
18. Letter of denial from Zoning Officer – 8/29/12
19. Planner Review – 10/12/12
20. Façade Sign detail – 10/15/12
21. Front Sign detail – 10/15/12
22. Site tenant sign photo – undated
23. Dunkin Donuts sign photo – undated
24. Supercuts sign
25. Staples sign
26. A&P Fresh sign

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

ROLL CALL:

Ayes: Mr. Sigillito, Mr. Sandler, Mr. Flaherty, Mr. Walker, Mr. Brennan,
Mr. Hoskins, Mr. Capilli

Abstain: None

APPROVAL OF VOUCHERS:

Brigette Bogart
Pach Food Service \$870.00

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. Walker, and seconded by Mr. Sandler

ROLL CALL:

Ayes: Mr. Sigillito, Mr. Sandler, Mr. Flaherty, Mr. Walker, Mr. Brennan,
Mr. Hoskins, Mr. Capilli

Abstain: None

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

None

DISCUSSION OF APPLICATIONS:

The Board discussed the application of Gregory and Gina Mathis. The members felt that it was a modest addition. They would have to get an architect who would determine whether the first floor was strong enough to support the second story and what would be necessary to be done to the structure to make it strong enough if it were not already.

The attorney was authorized to draw a resolution of approval for the next meeting.

NEW BUSINESS:

Closed session – Personnel By motion of Mr. Flaherty and a second from Mr. Hoskins, the Board went into Closed Session. (8:32 pm).

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Flaherty and a second by Mr. Hoskins, the meeting was adjourned at 9:45 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber