

BOROUGH OF RARITAN
Planning Board Meeting
MINUTES
February 28, 2024

CALL TO ORDER & FLAG SALUTE

The meeting was called to order at 6:30 p.m. in the Borough of Raritan Municipal Building. Chairman McMullin read the Open Public Meetings statement into the record.

ROLL CALL

Present

Chairman McMullin
Councilman Tozzi
Mr. Cunningham
Ms. Carra
Mr. DeCicco
Mr. Colvin
Mr. Murphy
Ms. Debellis

Also Present

Matt Flynn, Board Attorney
Joe Brosnan, Board Engineer/Planner
Lou Gara, Zoning/Construction Official/Board Secretary
Craig Bassong, Board Conflict Attorney

Absent

Mayor Carra
Mr. LoPresti*
Ms. Windrem

MINUTES

Motion by Mr. Cunningham, **seconded** by Ms. Carra to approve the Minutes of **11/29/23**, as presented.

Roll Call:

Aye: Mr. Cunningham, Ms. Debellis

Nay:

Abstain:

Motion by Ms. Carra, **seconded** by Mr. DeCicco to approve the Minutes of **1/24/24**, as presented.

Roll Call:

Aye: Chairman McMullin, Councilman Tozzi, Mr. Cunningham, Ms. Carra, Mr. Colvin, Mr. DeCicco, Mr. Murphy, Ms. Debellis

Nay:

Abstain:

****Mr. LoPresti arrived at 6:33.***

ENGINEERING/PLANNING REPORT

Mr. Brosnan advised that the Municipal Building project was moving along, that there were Redevelopment plans coming and that steady progress was being made with roadway projects involving drainage/sewer improvements. He is hoping that the TAP Grant comes through this year and advised that there were no Master Plan updates due anytime soon. He said there were discussions regarding an open space/recreation element without any formal action. Mr. Tozzi advised that there would be a Redevelopment Committee Meeting on Monday.

CONSTRUCTION/ZONING OFFICIAL REPORT

Mr. Gara provided updates on the following matters:

- Registration for Land Use Symposium
- Orlando Drive – Development stalled/closing expected in a few weeks.

APPLICATIONS

RARITAN CROSSING

Susan Rubright identified herself as the applicant's attorney and explained why it's been difficult to get a special meeting together. Conflicts for the Board Engineer on the only date that works (March 18) were discussed. Chairman McMullin polled the Board since that is a Monday. Ms. Rubright advised that her client would not be available for the regular March meeting date. Chairman McMullin agreed to schedule it for 3/18, pending further discussion the next day/confirmation from Lou and reminded the audience to check the website for updates. He shared that they are developing an email system for notifications to residents.

An announcement was made to carry the matter to 3/18/24 at 6:30 without further Notice. It was reiterated that any changes would be on the website by Monday.

The Board's conflict attorney, Craig Bossong was introduced. The Chairman explained why it was necessary to have a conflict attorney.

- **Brielle Capital LLC**
Block 35, Lot 5.01 (401 Tillman Street)
App.#23-008 – Minor site Plan with Use Variance

Councilman Tozzi recused.

Kara Kaczynski, Esq. entered her appearance for the applicant and provided an overview of the application to construct 2 townhomes in a single-family zone and reviewed all the relief being requested, including the d1 and c variances. Ms. Kaczynski explained that relief was granted for 8 residential units which was 4x the amount of density in 2022 less than a mile away (and in the same zone). She reviewed the proofs for that case while recognizing that each application stands on its own merits.

The Chairman asked if that property was vacant. She advised that it was demolished and that the subject property is vacant. Ms. Kaczynski introduced the witnesses.

Mr. Brosnan pointed out that the Colfax application had a contribution to the Fair Share Plan. A discussion regarding settlement terms with Fair Share Housing and whether there was a contribution made rather than a unit built ensued. Ms. Kaczynski advised that the resolution indicated that 1 of 2 units was to be affordable and didn't mention a contribution. The Board Attorney clarified that a payment in lieu of building (\$29,000) was required then. Chairman McMullin asked whether a fractional unit would apply in this situation. Ms. Kaczynski advised that any approval would have to abide by the Affordable Housing Ordinance and that they would comply.

Carlo Romano, Member of the Applicant, was sworn in. He confirmed that the applicant is under contract to purchase the property from the Borough and that their appearance is part of that contract. Mr. Romano described the two townhomes as similar to those from their initial presentation, with some changes. He provided an overview of his experience and his partner's experience as property owners in the Borough and confirmed that he personally owns property, not his LLC.

Questions of the witness

Frank Cherivassi, son of the owner of 405 Raritan Ave. asked why he can't build a one family home. The Chairman deferred his question to testimony that would be provided later.

Ms. Kaczynski confirmed that the applicant reviewed the Van Cleef review letter of 2/16 and would be willing to abide by all representations of their experts that would be made tonight.

Joan Nelson of 410 Raritan Ave. asked where the alternative plans were that a committee member asked for at the last meeting (one for single family facing Raritan and one for 2 family facing Tillman). Mr. Cunningham clarified that he had suggested they be positioned differently. Chairman McMullin asked if there was correspondence related to this. Mr. Brosnan concurred with Mr. Cunningham and confirmed that there was nothing in writing.

Ms. Kaczynski advised that the plans before the Board orient towards Tillman.

Craig Stires, P.E. was sworn and qualified. He provided an overview of the site and surrounding properties, reviewing the original application and showing an overlay to compare it to. Mr. Stires provided the lot dimensions (7844 s.f.) and advised that while it is vacant now, it had a large 5-bedroom house on it prior to the Borough buying it which was demo'd as well as a pool. Mr. Stires identified Stonebridge to the west, a commercial rental to the south with a single family on the lot and residences to the east and north.

Exhibit A1 – Colored version of Variance Plan dated 2/28/24.

Mr. Stires identified the driveways off Tillman and the property lines.

Exhibit A-2 – Colorized overlay of original/prior plan.

Mr. Stires advised that the original building was larger and faced Raritan Ave. with access from Raritan. He explained that the plans were revised to move the building a little further from the immediate neighbor/an additional 10' from the right of way, realize more green space and add additional landscaping in response to comments at the last hearing. He advised that the 15' setback is more consistent along Tillman.

Exhibit A-3 – Aerial view of the area.

Mr. Stires oriented everyone to the view and, identified the property as well as the neighborhood. He advised that the applicant looked at two-families in the neighborhood, calling attention to other two-families and industrial property. Ms. Kaczynski confirmed that the relief included a use variance and a setback variance. Mr. Stires confirmed, adding that they are under coverage now. He reviewed Mr. Bronson's 2/16 review memo.

Exhibit A-4 – Letter from Somerset County

Ms. Kaczynski provided a letter from the Somerset County Planning Board which Mr. Bronson confirmed would satisfy #2a on Page 4. He also confirmed that item #2c was located on the plans and therefore, satisfied. Mr. Brosnan advised that #2e could not be addressed at this stage/would be required prior to Final Site Plan Approval so a temporary waiver was granted even though it was listed as an incomplete item. Items 3a and 3c on Page 5 were also said to be satisfied in a similar manner to #2a and #2c.

Ms. Kaczynski advised that the Planner would elaborate on the variances outlined on pages 8-9 and that Mr. Stires provided updated design information regarding items 2a, b and c on Page 10. She confirmed for the Chairman that the Planner would provide the negative and positive criteria regarding #1 on page 8.

The applicant's team testified that they would be revising plans to provide parking and impervious coverage breakdowns (#b1 on Page 11). Mr. Brosnan confirmed that no variance was needed but rather, would include as a condition of approval just for recordkeeping purposes. Discussion about the impervious coverage calculation was discussed. Ms. Kaczynski assured Mr. Bronson they would provide him with a full plan set.

Items 2a and b regarding stormwater management were discussed. Mr. Stires advised that he spoke to Stan at the last meeting about this because he wasn't sure whether it still applies since they are not over on coverage anymore. Mr. Brosnan explained that while they are always looking for it, they cannot require it unless they are over. Mr. Stires advised that he wasn't sure about the number of drywells. Mr. Brosnan suggested that it couldn't hurt to test but understood the financial ramifications of testing. Ms. Kaczynski advised that they agree to a condition to work with the Engineer on additional landscaping and stormwater management.

Regarding item #3 on Page 11, Mr. Stires expanded on expansion of the gas main. Regarding item #4 on Page 11, Mr. Stires identified the sidewalk location. Discussion about the sidewalk network ensued. Mr. Brosnan explained that they may need to ensure ADA compliance but that this could be handled later. Regarding item #5 on Page 11, Mr. Stires agreed to work with the engineer on landscaping changes. Mr. Brosnan agreed. Regarding item #6 on Page 11, Mr. Stires advised that the sanitary manhole could be removed. Mr. Brosnan agreed.

Questions from the Board

Mr. Cunningham asked where the original dwelling was located in relation to the proposed building. Mr. Stires explained that it had similar frontage, was close to the property line at 3-5', and was previously oriented the same way as the proposed building (Raritan Ave) but now fronts on Tillman St.

Exhibit A-5 - Copy of a photo of the original house.

Mr. Stires discussed the orientation and spoke about the perspectives in the photo (Top left being the house from Raritan Ave., top right from the intersection, lower left being the backyard w/ pool and lower right being the backyard with ball hoop with pavement presumed to be underneath).

Locations of drywells were discussed.

Questions from the Public

Frank Cherivassi commented that the trees will grow onto his mother's house and asked who will be responsible for them then. The Chairman explained that bushes were being considered to avoid that. Mr. Cherivassi asked how they would cut the grass on their side of the property. Mr. Stires explained the layout and suggested that there would be adequate space. Ms. Kaczynski advised that the applicant would be amenable to a fence, if preferred. Mr. Cherivassi asked who would pay when the house gets mildew because of the trees being over their house.

Chairman McMullin attempted to clarify Mr. Cherivassi's concerns, telling Mr. Stires that he was talking about the potential of interference with light and air because of the height. Ms. Kaczynski advised that he could comment on the property height and the ordinance. Mr. Stires deferred to the architect but added that it does comply and that it was pulled back significantly to realize a significant improvement over the prior plan.

Montana Hendershot, tenant, and family member of owner of 405 Raritan Ave. explained that she had an issue with the driveway design/location and the way the property faces, referencing Tillman as a high traffic area. She commented that her window is there, and she does not want to see someone's backyard. Chairman McMullin suggested she hold her questions for the Architect.

Mark Marion, Architect was sworn and qualified. He confirmed that there were no changes to the plan set that was submitted and provided dimensions and amenities for the units, each of which would include a full basement and small decks on either side with sliders/nothing in the back which faces north. Mr. Marion testified that the 2-story building would be under the required height for zoning and 13' off the property line, making it 16' from the

other building. He testified that the windows would still get sun since the morning sun rises to the east but that the building may cast a shadow near the property line for a short time in the winter when the sun is lower. Mr. Marion suggested that the design fits in with the character of the neighborhood and from an aesthetic standpoint, would be smaller. He testified that there were other multifamily rentals to the west but that this would be smaller than those. He advised that there was a ranch next door and a 1 story industrial building across the street with a small old residence. Mr. Gara advised that this is an office for an electrical contractor as well as a residence. Mr. Marion stated that a single family would be similar.

Ms. Kaczynski referenced the 2/16 review letter again (item 2c specifically). She asked whether the measurements of the existing property/buildings and setback measurements were shown on his drawing. Mr. Marion said they were not. He advised that the building footprint would be 1728 s.f. (both units combined) and that the site would be under on coverage. He confirmed that they would be 3-bedroom units.

Ms. Kaczynski asked whether consideration had been given to the size of property in the design. Mr. Marion explained that the applicant requested 3-bedroom (approximately) 1400 s.f. units, calling it a modest size house, he explained that 1200 s.f. is the minimum size for 3 bedrooms.

Mr. Marion testified that the impervious coverage would not be excessive and would fit in nicely with the neighborhood.

Questions from the Board

Mr. Brosnan stated that they addressed comment 4a.1 regarding the 3-bedroom units. He suggested that 3 bedrooms were excessive for an undersized lot but that this was more impactful when there was an impervious coverage issue that was resolved with a decrease in building size since initial review.

There were comments about the newer looking duplex on Raritan Ave. looking similar. Mr. Marion responded. Ms. Kaczynski spoke about a property two doors down. The height and length were discussed as compared to the proposed structure. Mr. Marion suggested that they looked deeper but similar in length.

Someone commented on the one set back. Chairman McMullin asked how far back the proposed structure was from Raritan Ave, compared to the previous one. Mr. Marion stated that he did not know. Further discussion on the similarities of new construction nearby ensued.

Questions from the Public

Frank Cherivassi spoke about problems with renting out his mother's house because of the height of the old house. Mr. Marion testified that a 1 family would be in the same place/would be the same situation. Chairman McMullin reminded that the testimony was that the height would be the same regardless of the number of units. Mr. Cherivassi commented that he didn't want anyone looking into his niece's house. Chairman McMullin reminded that the old house was right on the property line where this one is moved back regardless of the number of units. Mr. Cherivassi commented on the number of people in a two-family because of the small lot size. Chairman McMullin reminded that testimony was provided on the size of the lot compared to those in the area.

Ms. Kaczynski advised that there is an exhibit. Mr. Marion testified that the new building is setback 20' from the front of their house. Mr. Cherivassi commented that the upstairs people are going to look down into his niece's house and commented on the prohibition of anymore two-family homes. Chairman McMullin asked whether the height and distance from Raritan Ave. of a one family would be similar. Mr. Marion testified that it would.

Mr. Tozzi asked about the number of off-street parking spaces and depth of driveways. Mr. Marion testified that

it was 8' to the edge of the drive with two driveways, one on each side. Parking requirements were discussed between the engineers. Referring to the tax map, Ms. Kaczynski advised that Mr. Stires could provide sizes of neighboring lots.

Ms. Hendershot referenced the high traffic area with the driveway facing Tillman rather than Raritan. She also mentioned the bus stop on the corner, so it didn't make sense and that the driveway previously faced Raritan Ave.

Exhibit A6 - Sheet 9 of Tax Map presented for the purpose of seeing the size of lots in the area.

Mr. Stires provided dimensions of various lots in the area and stated that the subject lot is smaller than the lot immediately adjacent. Ms. Kaczynski reminded that no impervious coverage variance would be needed. Mr. Stires confirmed that although it's a substandard lot, it meets coverage requirements.

John Tikena, Planner was sworn and qualified. Mr. Tikena provided an overview of the application and explained that he would be putting forth the proofs for the Use Variance and c1 variance. Referencing Medici, he spoke about site suitability as it relates to the purposes of Zoning and enhanced quality of proofs in connection with zoning that was changed in 2007. Mr. Brosnan advised that the Master Plan exam was in 2017. A brief discussion ensued about this.

He spoke about the negative criteria and suggested that the applicant listened to suggestions that the Board made previously.

Mr. Tikena spoke at length about the suitability of the site given its location at the end of the R4. He explained that reorienting the house from Raritan to Tillman would take it out of the neighborhood and that facing it south would make it serve as a positive transitional use between the R4 and the higher density zone to the west as well as industrial area to the south and residential to the north. He pointed out that all units along the edge of the PACD are two-family that are very similar but much larger. Referring to the aerial map, he counted 48 overall units that are two-family in nature, making that the predominate residential type along Tillman in particular. He reiterated that its location on the edge of the zone makes it particularly suitable for a 2-family use.

Mr. Tikena testified that the exterior side yard setback of 25' with a proposed 15' is consistent with existing setbacks on the balance of Tillman, especially newer uses. He suggested that the Board has an opportunity by granting relief to make the application better and not have any substantial detriment to the public good by increasing the side yard to the neighbor on the north since 8' is required yet 16' is being provided in order to provide more light/air to them. Mr. Tikena testified that by orienting it east/west, it puts the lower side of the building towards the neighbor with the peak facing the neighbor much further away. He added that the height of 31.5 was proposed instead of the permitted 35' in order to have as low a profile as possible for that neighbor. He testified that it could be pushed further west but that the impact would be questionable from a negative criteria standpoint.

Mr. Tikena testified that the exterior side yard setback is appropriate to grant by reason of exceptional shallowness as per MLUL. Speaking to the purposes of zoning, he cited special reasons e, g and i. Mr. Tikena suggested that a 2-family use would be an appropriate density given the other 48 in the immediate vicinity, plus 25 2 families in Stonebridge. He testified that it could be accommodated, and that the location is appropriate since it meets stormwater, landscaping, lighting, and coverage requirements. He added that it would be attractive and in scale with other homes in the neighborhood.

As for the enhanced proofs under Medici, Mr. Tikena explained that the character of the community has changed substantially since adoption of the Master Plan and Zoning Ordinance, demonstrating that a variance for a use omitted from the ordinance is not incompatible with the intent/purpose of the zone. He suggested that when the R4 was changed, the revision was made with an extremely broad brush. He suggested that adoption of the PACD

zone in 2011/2012 really impacts how the tiny corner of Tillman St. is impacted more than the change in 2007.

Mr. Tikena suggested that the Board has the ability with this application to make recommendations that mitigate any impacts with conditions of any approval where with a single family, they would not. Speaking again to the enhanced proofs, Mr. Tikena referenced purpose p of the MLUL given the established character/transition to uses to the south and opportunity for appropriate landscaping/buffering.

Mr. Tikena spoke about the Master Plan land use goals related to preserving/enhancing the residential character of the neighborhood and providing compatible infill housing/appropriate residential development areas targeting transition. He added that it targets redevelopment being contemplated by Council.

Mr. Cunningham asked whether they were open to suggestions for beautification/movement to west. Mr. Tikena said that they were. Chairman McMullin asked whether he would speak to the hardship. Mr. Tikena explained that their obligation is to show that the use is particularly suited for the site. He reviewed the proofs again.

Mr. Brosnan referenced Section 9 of the 2007 Master Plan Re-exam and the new Zoning schedule adopted in 2013.

Questions from the Board

There were none.

Questions from the Public

Joan Nelson asked about the Board's suggestion for the applicant to provide a plan for a single-family home and commented that his hardship was tied to profit. The Board Attorney explained that they were not legally required to present an alternative plan and spoke about what was required under the proofs.

Ms. Nelson asked why they were comparing townhomes at an apartment complex with a residential area. Mr. Tikena responded, referencing Exhibit A3. He explained that there was an advantage for the Board to condition a non-conforming use as opposed to not having any input with a conforming use.

Public Comment

Ms. Nelson commented that the property was zoned for single-family and should remain that way. She also commented that the proposal was too large for the lot and that does not fit in with the neighborhood. Ms. Nelson commented that the existing 2 family homes were "old" and called Stonebridge "apples and oranges."

Montana Hendershot of 403 Raritan Ave. commented that regardless of setback, she still doesn't like the backyard right outside of her window. She also commented that it does not fit in with the neighborhood like the previous property that faced Raritan Ave. and that she is sad to see it as a two family that would "take away" from her grandmother's rental which would be passed down.

Ms. Kaczynski pointed out that the property is vacant, making it prone to vagrancy/misuse unless developed and that a larger/taller single-family home could be built resulting in a more intense use. She commented that it would provide an "aesthetic improvement" to the property and surrounding area.

Mr. Brosnan stated that it could be beneficial to discuss moving the structure further west but wasn't sure how far before it became an encumbrance on the other side.

Chairman McMullin commented on potential traffic impacts.

Deliberations

There was a discussion on the ability to move the house west as a condition of approval. Mr. Brosnan explained that site conditions could impact the ability to push it back more than 10.' Chairman McMullin called it a preferential improvement as opposed to having no input. He reviewed voting eligibility because of the d variance. The subject of shrubbery instead of fencing was deferred to the Engineer. Ms. Kaczynski asked for clarification. The Board concluded to have the neighbors work out the details with the applicant and Board Engineer.

Motion by Mr. LoPresti, **seconded** by Ms. Carra to approve the application, with conditions as enumerated by the Board Attorney.

ROLL CALL:

Aye: Chairman McMullin, Mr. Cunningham, Ms. Carra, Mr. Colvin, Mr. Decicco, Mr. LoPresti, Mr. Murphy

Nay:

Abstain:

- Amrutha LLC
Block 44, Lot 5
App.#23-005

Susan Rubright entered her appearance and asked for input from the Board and counsel as to whether the existing 2nd floor apartment (not a current permitted use) would require a D variance. Referencing previous resolutions, she asserted that the use has been there and that the architect could testify to the evolution of the building.

The Board Attorney suggested that they could either declare it a pre-existing non-conforming use putting the burden of proof on the applicant or consider a mixed use which would require a use variance which would not be advisable.

Ms. Rubright asserted that it is on a residential street and was a house with an apartment that existed for at least 40 years. An extensive discussion ensued, and the Board concluded that a use variance would not be needed.

Ms. Rubright provided an overview of the application which she stated involves a lot with an existing 4786 s.f. building and parking area to be used as a liquor store (permitted use). She advised that the hours of operation would be 10am to 10pm and that the 1281 s.f. space (former dry cleaner) would be used as a small office to be rented out (tenant type to be announced). She indicated that the 2nd floor would continue to be an apartment. She provided details on the site layout and advised that a parking variance would be needed. She also advised that there are pre-existing site conditions that don't meet ordinance standards but would not be changing.

The following witnesses were sworn in: David Stires, PE; Jesse Moore, Architect; Renata Kirchhoff, Traffic Engineer, and Sankar Kamphapati (Applicant).

Sankar Kamphapati testified as to operations based on his experience with three other stores similar in size that he has operated since 2008. He confirmed that the store would operate Monday-Friday from 10am to 10pm with a total of 4 employees working 2 separate shifts.

Mr. Kamphapati testified that the average time spent in the store by a customer is 5-7 minutes and that peak time is between 5-7pm. He testified that the average number of customers per day would be 120.

Parking and the need for a parking variance was discussed. Mr. Kamphapati testified that parking was adequate based on his experience.

Deliveries were discussed. Mr. Kamphapati testified that delivery times would be limited to 9am – 8pm, Tuesday through Friday and that he would have control over times if the Board had concerns about it. He testified that they would generally receive 10 deliveries per week from various trucks/box trucks (but no tractor trailers) and that there were separate suppliers for beer vs. wine/liquor. He testified that Tuesdays were the main day for deliveries and that they take 15 minutes. He testified that there would be no tractor trailer deliveries.

Mr. Kamphapati provided testimony on the use of the small office (former drycleaner) and confirmed that he would be continuing to rent out the small 1-bedroom apartment upstairs.

Refuse handling was discussed. Mr. Kamphapati testified that there would not be a lot of garbage and that cardboard would be picked up weekly, generally on Mondays. He advised that the container would be kept inside a storage area of the pre-engineering building.

Parking was discussed. Mr. Kamphapati reiterated that it was adequate. Testimony on parking was deferred to the Traffic Engineer.

Questions from the Public

Patrick Dinsmore of 523 Victoria Street asked about the status of the property and whether the applicant had appeared before the Board previously/what the result was. Ms. Rubright confirmed that they own the property and that they had appeared, but the prior location was not suitable. She questioned the relevance of that since that property was in a different zone and did not relate to this one.

Chairman McMullin encouraged them to stay on the topic of the present matter. Mr. Dinsmore asserted that 31 Frelinghuysen was relevant. The Board Attorney asserted that it was not relevant to this application. Mr. Dinsmore explained that it was relevant because it showed a conflict of interest between the applicant and Ms. Rubright. Ms. Rubright explained that despite her former designation as the Board Attorney, she is permitted to appear before the Board and provided justification for this. The Board Attorney concurred.

Mr. Dinsmore explained that he lives in the area and asked whether there had been any construction done inside, including modifications of masonry walls and whether there were permits. Chairman McMullin advised him to contact Lou Gara since that was out of the Board's jurisdiction.

Amish Patel identified himself as the General Manager of 4 liquor stores; 2 of which are in Raritan. He commented on operations and delivery truck sizes. Mr. Patel asked the applicant to confirm his hours of operation on Sundays since 10 am opening would violate local ordinances. The hours of operation were changed to 11am – 10pm on Sundays. Ms. Rubright confirmed that the applicant would comply with State Law and Township Ordinances.

Mr. Patel asked for the location of the applicant's other stores, referencing a difference in vendors that serve Somerset County. He challenged testimony regarding maximum delivery truck size, saying that 35' is the minimum size for beer trucks, rather than the maximum. The applicant stood by his testimony (32-38' max). Mr. Patel asserted that trucks would be "way bigger," and would be tractor trailers. The applicant asserted that there would be no tractor trailer deliveries. Chairman McMullin reviewed his testimony that there would be no tractor trailer deliveries and that the truck sizes would vary from 32'-38' maximum. Ms. Rubright indicated that the applicant would agree to conditions of approval relative to this.

Mr. Stires was accepted as an expert witness in Engineering and Planning.

Exhibit A-1 (Site Plan) was marked and discussed. Mr. Stires provided testimony on site conditions, zoning, parking, surrounding areas and access.

Exhibit A-2 (Aerial) was marked and discussed. Zone B3 was identified and described as mixed use, leaning towards commercial. Mr. Stires outlined proposed changes to the site, including restriping and ADA modifications which would not result in the loss of any parking spaces. He confirmed that there were no riparian or wetlands, and that drainage would be maintained.

Site circulation, including truck access and specific maneuvers were discussed. Mr. Stires explained that trucks would use the 15' shoulder on Route 206 and confirmed that trucks would range from 34-38' in length. He identified the refuse area and confirmed that there would be no changes to the lighting.

Mr. Stires spoke about pre-existing non-conforming conditions and confirmed that there would be no changes to previous variances, which Ms. Rubright indicated should all be reflected in the prior approval from 1994. She confirmed that the rear yard was 5', parking was 17 spaces and coverage was 37% which at the time meant building coverage: not impervious. Mr. Brosnan acknowledged this change.

The extent to which any of the variances differed from the 1994 approval was discussed. The manner in which the parking was calculated was discussed. Mr. Stires confirmed that 20 spaces are proposed where 28 are required. Turnaround time for parking at the office use was discussed.

Questions from the Board

Councilman Tozzi asked for clarification on parking and whether spaces would be dedicated for separate uses. Mr. Stires advised that the calculations were based on ITE data. Ms. Rubright indicated that liquor store employees may park in the area of the office use.

Mr. Brosnan spoke about the size of the spaces and current configuration. He asked about use of the shoulder and distance to the pre-engineered building for a truck backing in. Mr. Stires provided testimony on this. Ms. Rubright spoke about a waiver for 9x18 spaces. The Board Attorney indicated that it was already noted.

Ms. Rubright asked Mr. Stires to confirm the location of sewer and water lines, referencing item g. on Page 5 of Van Cleef's review letter. Mr. Stires testified that the use would be consistent with the prior uses. Mr. Brosnan confirmed that this was satisfied.

There was an extensive discussion regarding ADA space design and location as well as the location of employee parking. The applicant confirmed that they would be willing to designate an employee space on the other side of the lot. Maneuvering of trucks for deliveries was discussed.

Questions from the Public

Patrick Dinsmore asked how the 6 spaces off Frelinghuysen would be restricted. Mr. Stires indicated that the owner would enforce/address that. The use of signage was discussed.

Maria Durka of 35 Frelinghuysen Ave. asked what would happen if the tenant needed the ADA space. Ms. Rubright said they would comply with State regulations if the situation arose.

Jesse Moore, Architect was qualified and accepted as an expert witness.

Referencing Sheets A1 and A2 of the plan, Mr. Moore provided architectural testimony related to the exterior, described as minor façade improvements in keeping with existing masonry building. He provided testimony related to the interior layout/checkout, especially as it relates to the exit. He identified the storage location and ADA bathrooms.

Concerns about parking and foot traffic on Frelinghuysen were discussed. A condition of approval related to this was discussed. Access on Frelinghuysen was agreed to be for emergency (exit) only. Accessibility was discussed.

A condition of approval limiting use of the office use space to non-liquor store uses was discussed. The Board Attorney advised that separate rental units would need separate CO's which would re-trigger the parking issue and prevent any issues with it in addition to the condition of approval.

Questions from the Public

Mr. Dinsmore asked about specifics of signage, especially neon/window signs on Frelinghuysen. Mr. Moore testified that any signage he testified about is on the building. The Board Attorney clarified that any approval would be conditioned upon no neon or lit signage facing any properties on the Frelinghuysen side.

Mr. Patel asked about paperwork required to be submitted to the State regarding any portion of the building not being used for the liquor store per ABC law. Chairman McMullin advised that this was beyond their jurisdiction but confirmed that it would be covered as a condition of approval.

Chairman McMullin moved to adjourn the application to March 27. Ms. Rubright consented. The Board Attorney announced that the application would be continued to March 27 at 6:30 p.m.

MISCELLANEOUS

Chairman McMullin led a discussion about the appointment of the Conflict Attorney. He explained that a determination was made to bring Larry Cohen back instead of starting over with a new firm, namely because he had exposure to the ongoing Raritan Crossing application. The Board deliberated.

Motion by Ms. Carra, **seconded** by Mr. Colvin to appoint Larry Cohen, Esq. as Conflict Attorney for the Planning Board on the Raritan Crossing application, rather than Mark Peck.

ROLL CALL:

Aye: Chairman McMullin, Councilman Tozzi, Mr. Cunningham, Ms. Carra, Mr. Colvin, Mr. LoPresti, Mr. Murphy, Ms. Debellis

Nay:

Abstain:

It should be noted that Mr. Decicco left the meeting at approximately 9:30.

PUBLIC COMMENT

Chairman McMullin opened the floor to public comment.

MISCELLANEOUS

ADJOURNMENT

Motion by Mayor Carra, **seconded** by Mr. LoPresti and unanimously carried to adjourn at 10:41.

Respectfully submitted,



Lou Gara
Board Administrator/Secretary

Approved: 3/27/24