

Official

**BOROUGH OF RIVER EDGE PLANNING BOARD
MINUTES
December 20, 2012**

Arthur Neiss, Esq.

ROLL CALL PRESENT: Mayor Moscaritolo, Robert Nyman, Edward Lane, Kevin Duerr, James Arakalian, Vito Acquafredda, Ellen Busteded, ~~Kevin Duerr~~, Tom Kyritz, Richard Mehrman, Robert Costa.
Councilmen Mignone

Absent: Peter Theisz, Neil Dornheim

CALL MEETING TO ORDER:

Kevin Duerr called the Planning Board meeting to order at 8:10 p.m.

Salute to Flag

Sunshine Law (Open Public Meetings Act)

Adequate notice of this meeting has been provided by sending notices on December 24, 2011 to the Record and the Ridgewood News. By positioning on the Bulletin Board in the lobby of the Borough Hall and filing a notice of the same with the Municipal Clerk.

AGENDA

APPROVAL OF MINUTES AUGUST 16, 2012

Mr. Nyman makes a motion to accept the minutes, seconded by Mr. Kyritz.

ROLL CALL

Mr. Nyman, Mr. Duerr, Mr. Acquafredda, Mr. Kyritz, Ms. Busteded, Mayor Moscaritolo – Vote Yes.

Motion carries to accept the minutes.

APPROVAL OF MINUTES NOVEMBER 15, 2012

Vito Acquafredda makes a motion to accept the minutes, seconded by Mr. Nyman.

ROLL CALL VOTE

Mayor Moscaritolo, Mr. Nyman, Mr. Lane, Mr. Duerr, Mr. Arakalian, Mr. Acquafredda, Ms. Busteded, Mr. Kyritz – All vote Yes.

Motion carries Minutes are approved.

CONTINUED DISCUSSION ON THE RIVER EDGE HISTORIC PRESERVATION (2)

Block 406/Lot 9, Mr. & Mrs. Jack Picone, 735-737 Kinderkamack Road

Block 208/Lot 14, Mr. & Mrs. Robert Gsruska, 56 Spring Valley Road

Member – Last time we met we were trying to determine to interpret the ordinance as to what the Planning Boards Roll is in the process. One of the things was to determine if it is consistent with the Master Plan, based on what we saw in a previous resolution. That is not what the resolution said. The resolution of approval by the Mayor & Council designated prior property especially said that the Planning Board concurred with the designation.

Richard Mehrman – I did review the ordinance, I have three questions, I will read to you from 240-10 Designation of buildings, etc, as historical. The commission is to advise the owners of record of the significance and consequences of such designation, the rights of the owners of record. What I would like to hear from the commission specifically consequences.

Second question – Have the homeowners provide their consent.

Third question – This is a local, not a national designation and I wanted to hear from the commission if this designation is reversible or does it go with the land? A homeowner can say, yes, we are in favor of it and their children might inherit the property and decide this is a burden on our property and would like to eliminate this.

I think the homeowner should have a lot to say about any incumbencies on this land.

James Arakalian – I don't think we are supposed to rubber stamp or overturn their designation. What we need to decide is whether we believe by doing these designations is it consistent with the purposes of zoning, does it support the Master Plan of the borough? I think the Mayor & Council are looking to this board as their Land Use experts to give them some questions or some approval or guidance.

We have to make sure all the criteria has been met.

Mr. Neiss – Who serves as the attorney for the commission, how where those due process requirements complied with? I don't know if it is the borough attorney, or if the preservation committee has its own council to review these kind of issues. I believe it is the responsibility of this board is for this board to review the consistency of those recommendations and make a recommendation to the Mayor & Council.

Ed Mignone – If we don't act it is a pass or approval.

Vito Acquafredda – We really have to know what we are doing.

Kevin Duerr – What would the Planning Board like to do? We did ask the commission to appear before us and they are not here tonight.

James Arakalian – I know that they have a lot of these designations. If indeed the borough designates these as historical homes, does the borough have the right to control what happens on that property?

Mr. Mehrman – There is language there as to the maintenance of the property and there are fines set with that. If you don't maintain your property in their estimation as far as the exterior is concerned, you are under penalty of the ordinance.

My Nyman – If they want to make any changes to the exterior, they have to file an application and the commission gets to review it and they give a recommendation and ultimately it comes back to us to vote on it. We are the ones who are going to be hearing these applications only to the exterior.

Mr. Neiss – The Municipal Lane Use Law has provisions on historical provisions and how they are to operate. What I am reading here as the duties of the Historical Preservation Commission, doesn't comport with what the duties are in the ordinance here in River Edge. The duties are limited to preparing the survey of the historic sites, making recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implication for preservation of the historic sites of any other Master Plan elements. Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program. Suggesting perhaps that the borough purchase the property. Advise the Planning and Zoning Boards on applications for development, provide written reports of the mandatory and supplementary act of the application of the Zoning Board concerning historic preservation and carry out such advisory educational and informational functions as will promote historic preservation in the municipality.

Mayor Moscaritolo – There is a section of the ML that talks about the Historic Commission, but there are other sections of Title 40 that deal with the creation of the Historic Commission and power of the Historic Commission that this ordinance was drafted based on other state statues. I don't think that our ordinance grant and additional powers to our local commission then are already permitted under state law. I do think that we may want to send a letter back to the Mayor & Council, that the referral is incomplete because we are lacking relevant documentation, lacking the notice, lacking the minutes from historic commission.

(Board speaking amongst themselves)

Mr. Costa – Under B on Page 11 the procedure for designation may be made by the Borough Council, the Commission, the Planning Board or an application by an owner. The task is whether or not to designate the property.

Member - The proposal has been made by the Historical Commission.

Mr. Neiss – That relates to a district.

Mr. Mehrman – On the last redevelopment review of the Master Plan, we did say something about that in order to permit them, the commission, to get grants.

Kevin Duerr – What consideration do you want to send back to the Mayor & Council?

Mr. Lane – It is not in line with the fact that the state regulations that we do not have an historic district.

Mr. Nyman – This is the 96 and I will read, Residential neighborhoods goals and objectives, maintain the character and viability of all established residential neighborhoods. Prevent the development of incompatible land uses in all residential neighborhoods through zoning and land use controls. You could make an argument there that this is incompatible and also does it maintain the character and viability, the sale ability of properties and the attractiveness from an economic standpoint.

Member – Are we leaning towards the two designations not being in line with the master plan as currently written?

James Arakalian – I am leaning that way. I am prepared to make a motion on that. This is not consistent with our Mater Plan and I recommend that our counsel send a letter stating to Mayor and council and to the Historic Commission that this board had decided that it is not conforming to our Master Plan.

Edward Lane – I will second that motion.

DISCUSSION – Member - There are already 12 properties in town that are specifically listed in the Master Plan as having historically designations so by saying that two more are not consistent with the Master Plan, the section that Mr. Nyman read we want to preserve the quality of the residential neighborhoods, if we do they will remain residential, we are not changing the use because they would remain residential, they are not going to become tourist locations or anything like that it only effects the exterior, it does affect the use or the improvement of the interior, it could make the neighborhoods that these properties are located in even more valuable as time goes on. I think that if we say it is inconsistent we are basically telling the Historical Commission it can never do their job under the ordinance. I don't think we should do that, I do think they have given us adequate basis for us to review the Master Plan because of all the documentation.

James Arakalian – Lets say in 30 days we get everything they have, at the end of the day we are still sitting here making the same decision. What is being asked of us is very simply, does this conform with our Master Plan, as it is currently written.

The Historical Preservation Commission does not have any legal guidance or legal council.

Member – We do have a letter from the home owner on Spring Valley with an objection letter, we have nothing from the Piccone property.

Kevin Duerr – So if they want to come back with more information and to the Mayors point.

James Arakalian – I will reword my motion – Based on the information provided we find the information to be incomplete and we are unable to determine at this time whether or not the request conforms to the Master Plan.

Member – It is not consistent based on the limited amount of information provided we feel it is inconsistent with the current Master Plan.

Mr. Neiss – James Arakalian motion should read - Based on the limited information provided the Planning Board cannot say that the current recommendations of the Historic Preservation Commission are consistent with the Master Plan.

Mayor Moscaritolo – Seconds the motion.

Member – We might want to add that we do not know if proper procedure was followed by the Historic Preservation Commission and ask that the Mayor & Council check into it.

ROLL CALL VOTE

Mr. Mignone, Mr. Arakalian, Mr. Acquafredda, Mayor Moscaritolo, Mr. Duerr, Mr. Nyman, Mr. Lane, Ms Busted, Mr. Kyriz – All Vote Yes.

Motion carries.

Mr. Neiss – I will draft something which I will submit to you before it goes to the Mayor and council.

Member – Mr. Mayor perhaps you could give us an update on what transpired regarding the application down on Park Avenue.

Mayor Moscaritolo – After we made our recommendations to the Mayor and Council all of the recommendations were adapted by the Mayor & Council. A revised ordinance was drafted by Mr. Cereste he sent out notices to everybody within 200 feet, certified mail although he mailed the notices within 10 days of the final adoption, many of the home owners did not receive them until about 3 days before the final adoption. The home owners appeared at the council meeting indicating why we were doing this to benefit a single developer and it was going to detrimentally affect the character of the neighborhood and I allowed everyone in the public who wished to speak and allowed them to speak at least once.

Mr. Barrett was there, Mr. Colicchio, Liz Serenicky, they all spoke Mr. Colicchio spoke from his heart about the problems he has had with that property and the amount of money he has invested in it, the fact that he had approvals and building permits already pulled, but when he went to the tax assessor and the tax assessor told him that he taxes for a single family home were going to be upward of \$20,000.00 and that he was going to have to settle for like \$650,000 he knew he would never be able to market that property.

On that east side of Park Avenue there is already a 5 family, an 8 family an 11 family homes. We tried to explain to the public as best we could that we didn't think it was going to improve because the housing in that particular area is a little bit run down, that there is some older housing that the setbacks are only 20 feet from the sidewalk and that we were going to push these new duplexes back another 10 feet in time there would be a sidewalk in the front, which would allow commuters to access the train station. It was going to be beneficial to the neighborhood we indicated that these were going to be two separate single family owner occupied residences that was the intension of the Mayor & Council and the Planning Board when it recommended changes in the ordinance.

I think the extra information that they got including the renderings of the drawings and went over the issues that Mr. Barrett and his client brought. By the end of the meeting there was a lot better feeling then when we first got there.

Mr. Mignone – I would like to ask Mr. Mehrman where we stand on some of these projects.

Mr. Mehrman – Pizza Hut, 962 Kinderkamack Road – They are just about done up there and I will issue a letter he has conformed to what I wanted. I did research to see if there were any bonds being held and she didn't have anything.

Sanducci's – 2 applications, one was the Pizza operation and that is fine. The original Sanducci's Restaurant still open we have a couple of items there and basically they are 2 items one was the odorless filters that I can probably waive at this point because they don't leave much order because they don't do much trying, but the other was the sanitary sewer. They were suppose to submit a video of the sewer line, I have not seen it.

607 Kinderkamack Road – That is where the Babylon Restaurant is and if you remember Beemers was underneath the original lady that came in, we had a number of conditions that applied to the approval, a lot of them referred to Beemers and it becoming a catering operation and there was no onsite consumption. That has been cleaned up on my last tour and I would like to close it out. It is still vacant.

The new bridge landing one which the board had requested that the retaining wall receive attention immediately we are now on our 2nd or 3rd engineering firm. I today issued a letter on the latest proposed site. That wall has a long way to go.

Mcdonald's hasn't put a shovel in the ground.

Atkins – No updates

Bob Costs 7-11 revised plans have just come in.

(Discussion amongst the members)

Mr. Mehrman – Donte's Joe means well I told him to just pay somebody to do it, he wants to do it himself.

Mr. Nyman – Since we are going to be appointing new professionals in January I would like to know what we pay – what are the rates that we pay.

Mr. Neiss – The Planning Board attorney receives a salary an annual amount of \$4,500.00 a year and for work that is done in connection with applicant escrows or any litigation that arises it is at the rate of \$85.00 per hour.

Mr. Mehrman – The Planning rate it is per hourly rate which is drawn against the escrow put up by the applicant and it is at a rate of \$55.00 per hour. If it is done for the borough it is \$65.00 per hour.

Bob Costa – There is no budget the Mayor & Council set the rate.

Vito Acquafredda – This is my last meeting I will be on the council and thank you all your assistance.

Edward Lane -- This is my last meeting also.

Adjourn 10:00PM

Kevin Duerr -Makes a motion to adjourn, seconded by James Arakalian

All in favor say Aye – All say Aye.

Respectfully submitted,

Marijane Brandau