

**BOROUGH OF BOUND BROOK
PLANNING BOARD MEETING
JUNE 10, 1999**

The meeting of the Planning Board was called to order by chairman Lyle Strain at 7:40 in the municipal chambers, 230 Hamilton Street, Bound Brook, NJ.

ROLL CALL

The following members were present: F. Ryan, A. Gaglia, L. Strain, P. Pournaras, E. Custy, R. W. Tuck and J. Thompson. Also present were B. Malone, Recording Secretary and M. Rodgers, Esq., board attorney.

COMPLIANCE STATEMENT

This meeting is being held in compliance with the "Open Public Meetings Law." The requirements of the Law have been met. The Annual Meeting Notice has been posted in the Municipal Building, filed with the Municipal Clerk and forwarded to the Bound Brook Chronicle in January, 1999.

APPROVAL OF MINUTES

Mr. Strain noted that on page 6, the date for a hearing on ManorCare should be July 8 and not June 24. Motion presented by Mr. Thompson to approve the minutes as corrected, seconded by Mr. Custy and carried unanimously.

AGENDA

Mr. Strain announced that there are no hearings on tonight's agenda. Therefore, the board will proceed with an informal meeting and discuss by-law (ordinance) changes on the application for site plan as it relates to the requirements, there are some resolutions to be voted on, and Mr. Custy, as chairman of the committee on compliance, will give a report under "new business."

OPEN TO PUBLIC (NON-AGENDA ITEMS)

No comments or questions were presented at this time.

SITE PLAN WAIVER ORDINANCE CHANGE

Mr. Strain explained the current ordinance calls for a site plan being required when there is a change of ownership of a business. Mr. Rodgers noted that the current ordinance is very unclear as to what requires a site plan and what does not. He said the planning board has always taken the position that when a use changed in a commercial zone a site plan was required. Mr. Gupko decided that a change in use did not really require a site plan, and he was right. It was just being done because it had been done before, even though the ordinance didn't clearly require it. It would be required if a site was being developed or a structure completely changed. One of the purposes of this draft is to make it clear that whenever you change the occupant, owner or use of the building you need a site plan or a site plan waiver.

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MEMORANDUM FOR THE RECORD

On 10/15/54, the following information was received from the [redacted] office:

[redacted] advised that [redacted] had been interviewed on 10/14/54 and that [redacted] had advised that [redacted] had been interviewed on 10/13/54 and that [redacted] had advised that [redacted] had been interviewed on 10/12/54.

[redacted] advised that [redacted] had been interviewed on 10/11/54 and that [redacted] had advised that [redacted] had been interviewed on 10/10/54 and that [redacted] had advised that [redacted] had been interviewed on 10/9/54.

[redacted] advised that [redacted] had been interviewed on 10/8/54 and that [redacted] had advised that [redacted] had been interviewed on 10/7/54 and that [redacted] had advised that [redacted] had been interviewed on 10/6/54.

[redacted] advised that [redacted] had been interviewed on 10/5/54 and that [redacted] had advised that [redacted] had been interviewed on 10/4/54 and that [redacted] had advised that [redacted] had been interviewed on 10/3/54.

[redacted] advised that [redacted] had been interviewed on 10/2/54 and that [redacted] had advised that [redacted] had been interviewed on 10/1/54 and that [redacted] had advised that [redacted] had been interviewed on 9/30/54.

[redacted] advised that [redacted] had been interviewed on 9/29/54 and that [redacted] had advised that [redacted] had been interviewed on 9/28/54 and that [redacted] had advised that [redacted] had been interviewed on 9/27/54.

[redacted] advised that [redacted] had been interviewed on 9/26/54 and that [redacted] had advised that [redacted] had been interviewed on 9/25/54 and that [redacted] had advised that [redacted] had been interviewed on 9/24/54.

[redacted] advised that [redacted] had been interviewed on 9/23/54 and that [redacted] had advised that [redacted] had been interviewed on 9/22/54 and that [redacted] had advised that [redacted] had been interviewed on 9/21/54.

[redacted] advised that [redacted] had been interviewed on 9/20/54 and that [redacted] had advised that [redacted] had been interviewed on 9/19/54 and that [redacted] had advised that [redacted] had been interviewed on 9/18/54.

Mr. Ryan asked for an example. Mr. Rodgers explained that if a store should change from a stationery store to another type of store it would require a site plan waiver. Mr. Strain recalled that Edward's Stationery Store, since it was totally developed, was considered for a site plan waiver. Mr. Rodgers said that the ordinance is not clear. There is also a provision for a site plan waiver which is even more even confusing because you are waiving a site plan that might not be required in the first place! This ordinance makes it clear that in a non-commercial situation you need a site plan if you change ownership, tenant or nature of business. If you have an existing business and plan to put another store in you can use a site plan waiver. The site plan application gives the board and the town a chance to "clean up" a business. At that time the planning board has a right to make the owner get a site plan or site plan waiver and impose conditions. Some towns do not have site plan waivers.

Mr. Strain elaborated upon the site plan waiver concept: it is a mechanism by which the board can waive the requirement for a site plan where the nature of the property is such that it cannot be appreciably improved; it would be nearly impossible to make major improvements. Mr. Rodgers noted that if a building is a mess the board would have the right to say "in order to get a waiver, clean this up." Mr. Gaglia recalled that, in the case of the Edwards building, they were required to fix a couple of things. Mr. Rodgers noted that a site plan applies to the *exterior*, you can't make people do much on the inside of a building. In this case, the difference is not a big deal, just a different product. Mr. Gaglia recalled that this property is landscaped, which is rare in that area.

Mr. Custy asked who is going to make these changes, and Mr. Strain answered that Mr. Rodgers and Mrs. Doyle will come up with the language to recommend to the council. Mr. Rodgers marked up Mrs. Doyle's draft and would like to show her his changes before the board considers them. Mrs. Doyle shared the site plan and site plan waiver with a facade ordinance but there are no standards for approving a facade. It allows the town to have some kind of vision and encourage conformity. In order for it to be legal, you have to spell out standards as to what you want the facade to look like.

Mr. Strain suggested that the board separate out the site plan requirements from those for facades. It is not a major change as to rewriting the whole ordinance. He feels it will take some time to come up with the requirements for facades and suggested that the board go back and look at the document that was produced when the SID was created, but it may not suffice for the whole town. It would be nice to create some kind of a vision as to what the board thinks various business locations should look like in a town of our size and history.

Mr. Gaglia suggested that there is a gentleman buying up a lot of buildings and doing what he wants with them. Mr. Rodgers suggested that Mrs. Doyle obtain some facade ordinances and perhaps modify one to fit Bound Brook. Mr. Gaglia suggested adding a symmetry clause to prevent dual ownership and two different styles. Mrs. Pournaras cautioned the board that if they decide they want everything Victorian or colonial that

might be okay for the business zone, but what about Union Avenue? She feels the board needs to go district by district. She noted that in Westfield, for example, most of the buildings are painted in the same color scheme and it is very attractive. Mr. Rodgers suggested inviting Mr. Carzis to express his point of view as an owner and member of the architectural review board.

Sign Ordinance

Mr. Strain said it will be difficult to discuss this without Mrs. Doyle. He would entertain some discussion, but the board is limited as to how far they can go with it. They need to get an idea in their own minds about what they think they want the signs to look like. Right now the ordinance prohibits backlit signs and there are many in the borough. The same goes for neon. Does the board want to prohibit these or not? It is difficult to make a blanket statement that this is what they want to see. He feels the board would be well advised to take a look at whether or not it would be beneficial to have all signage of a particular nature in order to have some continuity.

Mr. Strain recalled a specific retail area, a strip mall in Somerset, that has some beautiful wood signs that are front lit and look antique. He felt it would be nice to have a consistent style that would highlight, especially our historic Main Street area. Mr. Rodgers suggested that it would not be appropriate for the board to just dream up a theme; he felt they could comment on recommendations from a professional. Mr. Gaglia said he felt it was more the board's purview to deal with size, location, number, etc. Mrs. Pournaras, as a downtown business owner, indicated that she feels everyone has their own taste. She agrees the board should be dealing with location, though she has lost business since she took the sign off the side of the building. She noted that Torpedos has a nice sign on the side of their building. It brings the location to people's attention, and she sees nothing wrong with it. She feels people have a right to advertise their business. Mr. Strain agreed that owners should have some flexibility but that the board needs to do anything possible to enhance the downtown area. He feels we can make it more attractive by improving the definition of what signs can or cannot be, and changing the ordinance, making it as reasonable as possible, will make some improvements in the style and type of signs in order to improve the attractiveness of the downtown area.

Mrs. Pournaras pointed out that the consignment shop on Hamilton and Main could not have a sign on Hamilton; the pottery shop has signs on Maiden and Hamilton. The ordinance indicates you are allowed one sign for each entrance but no more than four. People are in business to attract customers. A sign is the first thing the customer sees and indicates whether they want to come in or not. Therefore, no one would knowingly put up a tacky or overpowering sign, but some guidelines are needed. Members agreed neon pictures of food can be cluttering and ugly.

Mr. Tuck suggested that one of the problems you run into with signs is that certain companies have their own logos and color schemes that are required for franchises. Mr.

Gaglia noted that the logo can sometimes be incorporated into a sign and not be the entire sign. Mr. Strain has seen signs that are clearly something other than what the traditional logo shows. Mr. Tuck added that everyone here would have a different opinion of what looks good.

Mr. Strain explained that the borough currently has two signs ordinances, one for the Special Improvement District and one for the rest of the town. They each have different requirements and are somewhat ambiguous. One of our goals was to combine the two and come up with something that is more clearly manageable and something that Mr. Gupko doesn't have to spend weeks to review for each sign. In order to accomplish that, we have to start from scratch.

Mrs. Pournaras agreed that it is difficult for the building inspector too. There was no rule covering a sign on a corner for the SID. When people go to Mr. Gupko, he should be able to consult a clearly written ordinance. Mr. Tuck suggested that the business people should be allowed a lot of leeway. Different sized buildings can accommodate different sized signs. The size allowed will have to vary with the size of the building. He suggested that the board could specify a percentage of the size of the wall that could be covered with a sign. Using small signs you can't read defeats the purpose of erecting a sign.

Mr. Doyle said he has asked Mrs. Doyle for recommendations. In order to write a draft, she needs to know what the board wants. There is some logic to saying you can't have signs on every corner of a building; it seems to be a reasonable request. Mr. Pournaras mentioned the new Palace on Maiden Lane and the fact that the back wall faces her parking lot. The owner talked about putting a sign on the back of the building that could be seen from Hamilton Street. Does the board want to allow such signs? Mr. Thompson sees no problem with it if it is tasteful and attractive.

Mr. Rodgers asked if there is an Architectural Review Board, and Mrs. Pournaras informed him that there is a design committee. Mr. Thompson suggested the planning board meet with them; we could use their expertise. Mrs. Pournaras has noticed that people approach Andy about a sign; they never come back but the sign goes up. Mr. Ryan asked if we could invite the members of this committee as members of the audience for a discussion regarding signs. Mrs. Pournaras will give each of them a copy of the suggested ordinance, and she suggested that the board also solicit Mike Gupko's input. He was very much against the current sign ordinance, which was adapted from Somerville's. Mr. Strain said that Mr. Gupko wrote the new ordinance.

Mr. Rodgers suggested that the board forget about the draft ordinance that is around now; it has all kinds of legal mistakes in it. He would suggest that the board make a list, in plain, simple sentences, of what they want to discuss, such as:

NEON: Yes or no?

SIZE: dimensions or ratio
COLOR: regulate or not?
BACKLIGHTING: Yes or no?
AWNINGS:

At that point, the board can have a discussion and tell whoever is writing the ordinance exactly what they want. Mr. Tuck suggested including directional signs.

Compliance Review Committee Report

Mr. Custy reported on a Compliance Review and Inspection Report at 56 Union Avenue (Somerset Prosthetics), a wheelchair ramp. The owner received a permit from Mr. Gupko and the ramp was subsequently inspected. The issue is that the committee feels this applicant should have been directed to the planning board. The size of the ramp indicates a need for setback, and it covers the entire front yard. This is the first Compliance Review the committee has done, and they are looking to the board for fine tuning and, ultimately, for a resolution.

Mrs. Pournaras asked if anyone had an engineer or an architect draw up this ramp. Mr. Custy did not know if plans were submitted. He reviewed the file and the applicant did all the proper things. The footings were inspected by Mr. Gupko. Mr. Rodgers asked if a building permit could be granted without seeing the plans. Mr. Ryan's concern is that this "monstrosity" might set a precedent. The issue of handicapped access could have been handled in other ways. Mr. Gupko's understanding is that it comes under ADA codes and the planning board, therefore, has no say. Mr. Thompson asked if there is any documentation that it meets ADA specifications.

Mr. Rodgers said he would not believe, unless he saw it in writing, that the ADA could override a town's code. He does not feel we have to allow something like this to ruin the look of the street. Mrs. Pournaras' understanding is that only new construction or renovations have to comply with ADA. Mr. Rodgers insisted that no one has shown the board any ordinance that would force the board to permit this. Mrs. Pournaras brought up the ramp on Mountain and Union, and Mr. Rodgers said that one probably meets the requirements. One can build a ramp as long as they don't violate setback requirements. Mr. Gaglia said he understands the property drops off in the back, preventing the ramp from being constructed there.

Mr. Strain said that it still comes back to this: as lay people, the board can only say that in their eyes it doesn't look good and does not appear to meet the setback requirements of the zone. He would like to know (a) what we can do about it and (b) what we can do to make sure these things come before the board in the future. As a planning board we don't have any powers over our construction code office and zoning officer. If he really believes he is right he needs to prove it to the board. Mr. Thompson said if this is

allowed it will set a precedent. He suggested a variance is needed, and Mr. Rodgers concurred.

Mrs. Pournaras asked Mr. Ryan what the council will do if the planning board comes to them with specific cases of non-compliance. Mr. Ryan replied that the council is not aware of the problem at all. It cannot come to the council other than through the planning board's recommendation to the council. When asked if the council will take action, Mr. Ryan said in his opinion this question is one of the main reasons this committee was formed. Its purpose is to educate the council. This ramp appears to be illegal, but the building officer says it is legal and the board can't do anything about it. The committee has to find out if Mr. Gupko is right or wrong. Once it is clarified, it can be sent to the council. Mr. Ryan suggested we ask Mr. Gupko, and Mr. Rodgers agreed that we should ask Mr. Gupko for his authority and any legal citations, then he will look it up. Mr. Ryan thinks we should notify Mr. Gupko that the board is afraid they are setting a precedent. Mr. Strain thinks it is a possibility that the board may have to live with it. But Mr. Rodgers cautioned that we don't want it to happen again.

Mr. Custy said as soon as he gets feedback from Mr. Thompson he will include that and send it to Mr. Gupko. Mr. Strain feels that the council needs to see it, but Mr. Ryan recommended getting an answer before submitting it to see if there is a flaw. Mr. Thompson and Mr. Custy will research it and ask Mr. Gupko for a proper answer. He may know something the board doesn't know. If it is wrong, the board will continue. Mr. Rodgers offered to look up any citations they may need to check.

Mr. Ryan brought up a home that has been sold to Midland School. The borough attorney says there is nothing they can do about it, but the deal was very secretive and he is worried about property values. Mr. Rodgers said the property is on Encampment Drive and suggested asking the borough attorney for a written opinion on why nothing can be done about it. There was some discussion about the property coming off the tax rolls. Mrs. Pournaras recalled two other instances where the neighbors came in screaming and the decision was reversed. Mr. Tuck believes this is a result of allowing the property values to drop over the years.

(Mrs. Pournaras left the meeting at 9:05 p.m.)

Mr. Ryan mentioned that he was downtown today and the county came in to Archie's parking lot. They paved around a 55-gallon drum, and it is a mess. There are many stores without dumpsters and some use the curb cans. He feels we have to hold people accountable. Mr. Strain said that the borough does have a code enforcement officer, and Mr. Rodgers said the enforcement committee is there to help him. Mr. Thompson asked if we can rescind their Certificate of Occupancy for such violations or possibly fine them. Mr. Ryan thinks we have to crack down on this. There are abandoned cars and junk behind the theater. The new committee could write these violations up and make Mr. Gupko's job easier. If they don't comply, it can be cleaned up and the owner billed.

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Mr. Thompson suggested the ordinance needs to be changed or strengthened, and Mr. Ryan will check into shared services. Mr. Gaglia again suggested that each establishment should have on record who their carter is, but there are no records kept. In an attempt to clean up, a parking lot was condemned and blocked off. The tenants moved everything and continued to use it.

Resolutions

#15-99, Borough of Bound Brook, 300-306 East Main Street (approval subject to retyping first page). Note that the resolution grants an easement also, as listed on the plans.

#16-99 Gomez, 403 East Main Street, with notation that the planning board would like a security check (Secretary will ask police).

#17-99 Cruver, 6 Hamilton Street, hobby shop (signage to be approved by SID).

Motion presented by Mr. Gaglia to approve the above resolutions, seconded by Mr. Thompson. Unanimous.

Motion presented by Mr. Custy, seconded by Mr. Gaglia, to adjourn the meeting at 9:32 p.m. Unanimous.

Respectfully submitted,

Barbara A. Malone
Recording Secretary