

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – September 17, 2018
PUBLIC MEETING

1. **Statement of Adequate Meeting Notice:** Read by Chairman Greenebaum.
2. **Flag Salute:** All present participated in the Pledge of Allegiance.
3. **Roll Call:**
Present: Members Greenebaum, English, Dello Russo, Sailliard, Kramer, Sedlak, Carton and McDowell. Absent: Mr. Traynor.
Board professionals present: Mr. Rago, Mr. Brightly and Mr. Szabo.
4. **Approval of Minutes:** Meeting of 8/20/18 – Upon review, a motion to approve the minutes as presented was made by Mr. Sedlak and seconded by Mr. Carton.
Voice vote:
All eligible members voted in the affirmative.
5. **Communications:** Copies of The New Jersey Planner, July/August 2018 were distributed.
6. **Old Business:** Review of amended OPMA statement of adequate notice. Upon discussion and voice vote, the Board agreed to amend its Open Public Meetings Act statement of adequate notice, read at the start of all meetings, to include wording recommended in the Board's earlier personal liability training session regarding the quasi-judicial nature of public hearings and appropriate decorum by attendees.
7. **New Business:**
 - A. Application #18-08 CLAREMONT MANOR - Preliminary & Final Multi-Family Major Site Plan w/ Use & Dimensional Variances for New 23 Unit Condominium Building w/ enclosed parking at 24-26 Claremont Road., B:75 L:6; Zone: B-1; Deemed substantially complete 8/8/18.

Representing the applicant, Essex Building, LLC, were attorney Vincent Bisogno, co-owner/applicant Joseph Rossi, co-owner/applicant Sam Masucci and engineer Mark Gimigliano. Messrs. Rossi, Masucci and Gimigliano were all sworn and Mr. Gimigliano was also qualified in his field of expertise. Board member Anthony Dello Russo recused himself from hearing the application due to prior business relationships with Mr. Rossi.

Exhibits introduced:

 - A-1 9/17/18 Existing Conditions Exhibit by Dykstra Walker Design Group, PA, 24" x 36", colorized sheet 1 of 1.
 - A-2a 9/17/18 24" x 36" Photo of Private Parking sign.
 - A-2b 9/17/18 11" x 17" Photo of Private Parking sign.
 - A-3 9/17/18 Site Plan Exhibit by Dykstra Walker Design Group, PA, 24" x 36", colorized sheet 1 of 1.

Mr. Bisogno introduced the application referring to **A-1** and stating that the applicant owns three lots in Bernardsville, block 76, lot 5 (corner of Claremont Rd. & Essex Ave., site of four story Essex Building); adjacent block 76, lot 4 (open paved parking lot with shed and loading area) and the subject property, block 75, lot 6, (open paved parking lot, north of Essex Building). Proposed on lot 6

(0.617 acre) is a five story (6 level), 23 unit residential apartment condominium building. The open lot currently has 57 spaces, the proposed building will have 86 spaces on two enclosed levels beneath the dwelling levels. Another lot involved in the application, lot 5 in block 77, is owned by Wells Fargo Bank and located between Woodland Rd. and Pfadenhauer Alley. It is an open parking lot with 69 spaces, 20 of which have been rented by the applicant for the past 30 years and will continue to be rented. The approvals required are preliminary and final site plan; use variance for multi-family residential apartments; front yard setback of 4' at the main building where 10' is required; front yard setback of 2' at overhanging balconies; no on-site loading space; five stories and 53.5' building height where three stories and 35' are allowed; and modification of conditions imposed by a 12/20/79 variance approval to enlarge the Essex building and demolish an adjacent building to provide parking. The applicant will seek a modification of the 1979 approval that will allow the individual sale of any of the three lots previously tied to that approval. Part of the 1979 approval allowed 63 parking spaces where 87 were required. A total of 83 spaces will now be available to the Essex building by means of a cooperative agreement with the condo association; 38 of the new parking spaces will always be reserved for Essex Building tenants. It is possible to build a conforming building on lot 6 but not for the proposed residential use.

Mr. Rossi testified to the following, either directly or in response to questions from the Board, its professionals and/or the public: He has been a co-owner of the Essex building with Mr. Masucci for over 30 years. The parking spaces on lot 4 next to the Essex Building are for its tenants, visitors and a commercial loading space, which is mostly used for furniture deliveries and can accommodate a tractor-trailer truck. The Essex Building has four floors, approximately 9,000 S.F. each. The first floor is all retail and the upper three contain offices. It is currently about 80% leased. Subject lot 6 has 57 spaces which are for the Essex building. The 20 spaces leased from Wells Fargo Bank are for overflow parking but are never used. Additional spaces will be leased in the Wells Fargo lot to make up for those lost on lot 6 during construction. Copies of the no parking signs used at the Wells Fargo lot were displayed as exhibits **A-2a & A-2b**. *(Mr. Bisogno added that the project will meet the required RSIS standard of 48 spaces for the 23 apartments. The loading space for the Essex Building will also be used for the new building, but only during non-business hours, as currently restricted. After hours overflow parking spaces in the Essex Building lot will continue to be available to the residential tenants even if the building is sold.)* Retail businesses in town are struggling, mountain residents are looking to downsize and stay in town; the project will help support and bring in downtown businesses. Age-wise, there is no particular target market for the condos. A realtor will testify regarding the demographics and market for the type of residences proposed. Bernardsville is part of a mutual aid fire protection agreement with four municipalities, most of which have ladder trucks large enough to reach the roof of the proposed building.

Board members that questioned Mr. Rossi: Chairman Greenebaum, Mr. Carton, Ms. Kramer, Mr. Sedlak, Mr. Traynor.

Members of the public that questioned Mr. Rossi: Colleen Mason, 13 Laurel Ln.; Greg Calwhite, 24 Essex Ave.; Vicki Bosie, 10 Somerset Ave.; Janeene Chrisbacher, 12 Somerset Ave.; Jonathan Goodelman, 6 Somerset Ave.; Susan Horowitz, 11 Laurel Ln.; Michael Stevens, 12 Woodland Rd., Joan Calwhite, 24 Essex Ave.; Matt King, 5 Somerset Ave.; Heather MacDonald, 5 Somerset Ave.; Thomas O'Dea, 4 Holly Ridge Court; Tim Vanderpool, 15 Essex Ave.

Mr. Masucci testified to the following, either directly or in response to questions from the Board, its professionals and/or the public: He has been a real estate developer for 50 years and is a co owner of the Essex building with Mr. Rossi, which they purchased in 1987. He has developed and managed several similar buildings. A public prospectus will be issued for approval by the Department of

Community Affairs (DCA) for the formation of a condo association that will be responsible for the sales, operation and management of the property. They will also ask DCA to approve a 99 year deed restricted lease agreement with the Essex Building for the previously stated cooperative parking agreement and shared use of the existing off street loading space. It is not uncommon to have to cross the street to move furniture. He has identical arrangements at other developments of his, which are common due to the lack of urban land for parking. Coordinated management of the two properties would limit the time frames where there could be overlap. The joint agreement would be recorded. Of the required 48 residential tenant parking spaces 45 will be provided on the first parking level and 3 will be located on the 2nd level, where the 38 reserved spaces for Essex building will be located. These spaces, which include visitors' spaces, will be deeded or restricted by the condo association. The Essex Building spaces will have Title 39 (*explained by Mr. Rago*) police parking enforcement. The 38 spaces in the new building plus the 25 across the street, next to the Essex Building jointly provide the 63 spaces required for the Essex Building under the 1979 variance approval. The 20 remote spaces leased from Wells Fargo Bank (pays \$1,600 per month) are available for use but have never been needed. Although they are sometimes used by the public, those spaces are not policed. (*Mr. Szabo asked if any municipal approvals were needed to lease these spaces and if a legal basis for same can be shown. Mr. Bisogno is researching the matter and hopes to be able to provide future information. Chairman Greenebaum asked that the Bank's parking breakdown also be provided.*) As suggested in Per Mr. Brightly's report, he would be agreeable to increasing the number of tenant spaces by 10 and further working with Board professionals to achieve an overall acceptable parking plan. As requested, he will provide a parking compliance breakdown. The lower parking level will have a secured first stage lobby area for mail pickup and delivery and a cold room for food storage. There will be a secondary secured pedestrian access entrance to a designer lobby for the residents from which they can access their apartment elevator or the 1st floor parking area. Residents will have remote controlled, high speed overhead parking garage door access on the lower level. The 2nd parking level will not have a door. Amenities planned for the building are an 1,100 S.F. club room, a 900 S.F. fitness room, an outdoor amenities deck on the 1st dwelling level and, if the Board permits, a trellised rooftop garden. Trash and recyclables will be sent from the condos via separate chutes to a trash room on the 2nd parking level, which will also have an area for recyclable paper and cardboard collection. Condo association management will be responsible for taking trash and recyclables to the street on pick up days. There will be one full time manager on site with a dedicated office. Other administrative personnel may be present from time to time. Signage will be in compliance with the town ordinance and architecturally compatible with the building. Residents will have card key access into the building. Visitors will have call button access. Condo owners would be able to lease out their dwellings subject to homeowners' association regulations. Mr. Masucci stipulated to a condition of approval that no short term or Air B&B type leases would be allowed.

Board members and/or professionals that questioned Mr. Masucci: Chairman Greenebaum, Mr. McDowell, Mr. English, Mr. Sedlak, Mr. Rago, Mr. Brightly and Mr. Szabo.

Members of the public that questioned Mr. Masucci: Jeffrey Hanlon, 18 Flintlock Ct.; Michael Brandes, Pfadenhauer Alley building owner; Susan Horowitz, 11 Laurel Ln.; Craig Calwhite, 24 Essex Ave.; Jeff Bosie, 10 Somerset Ave.; James Peralta, 14 Woodland Rd.; Joan Grey, 13 Stevens St.

Mr. Gimigliano testified to the following, either directly or in response to questions from the Board, its professionals and/or the public: **A1 & A3** were referenced in describing the site, its environs and the proposed building. The subject lot, the Essex Building lot and the Wells Fargo lot are in the B-1 Business zone. Lots behind the Essex building and those to the north and west of the subject lot are in the R-4 Residential zone. The existing retaining walls on the north and west sides of the site, which will remain during and after construction, are in good condition and have 4' high chain link

protective fencing on top. Current drainage structures on the lot will be replaced. A 6-level, 5 story building is proposed with four levels of condos and 2 levels of enclosed parking. The parking levels cover more of the site and have a larger footprint than the dwelling levels above. The lower level parking garage, with 45 spaces for residents only, is accessed from Claremont Rd. and the upper level garage with 41 spaces (3 for residents) is accessed from Essex Ave. The 48' 9" x 18' spaces provided comply with RSIS standards. The 63 spaces required for the Essex building are provided by 38 on the upper parking level and 25 on the Essex Building lot, together with a loading space to be shared by both buildings. There are an additional 20 overflow parking spaces in the Wells Fargo lot. Seven 2-bedroom and sixteen 3-bedroom units are proposed. The building will be setback 4' from both streets with "Juliette" balconies extending 2' closer, where 10' setbacks are required at both streets. A corner lot has no rear yard and the two 11' side yards provided meet the 10' requirement. impervious lot coverage of 83% is proposed where 85% is allowed. Five stories, having a 59' building height (to the top of HVAC equipment), are proposed where 3 stories and 35' are allowed. The Essex Building height is 53.7'. If the trellised roof garden is allowed, the height to the top of the trellis will be 64'. This application is not a major stormwater application. Drainage is designed to manage runoff from additional impervious coverage as required. Six building mounted lights, similar in design to existing street lights, are proposed to illuminate the area between the building and the curbs, with no light spilling onto adjacent properties. Additional low level lights will be placed at entrance doors and some patio lights at the amenities deck, which is lower than the adjacent properties and top of existing retaining walls. Six street trees will be replaced with new trees. The intent is to retain all existing mature trees and plantings on site and supplement them with additional evergreens for screening. Foundation landscape planting around the building will also be provided. The applicant agrees to working with the Board's professionals to achieve a landscaping plan acceptable to the Borough. Comparative visual building heights from street level for the 25 Mill Street building and Essex Building were provided. Referencing Mr. Brightly's 9/12/18 report, he does not disagree with any comments or find any that cannot be complied with. The applicant will work with him on an acceptable parking arrangement. Noted plan corrections will be made and additional information provided as requested. Report items discussed of specific note: use of sheet piling and shoring to maintain existing retaining walls; separation of dwelling units from the amenities deck; provision of concrete aprons at both vehicle entrances; change of street trees from white oaks to a smaller species; revising and resubmitting the landscaping plan; stormwater flow over retaining walls and on Claremont Ave. re design of the driveway entrance; retention of existing trees above retaining walls during construction; need for a structural report from a structural on protecting the existing retaining wall. Referencing Mr. Szabo's report: will comply with landscaping comments and add to revised plan; provision of additional lighting info and signage details; addition of rooftop HVAC equipment info to the architectural plans; provision of site diagrams, perspectives and cross sections of surrounding buildings as related to the proposed building. HVAC equipment will be screened. Referencing the Environmental Commission 8/31/18 report: the applicant agrees to additional landscaping on the amenities deck. There are no engineering related comments to address from the Zoning, Fire Prevention or Historic Preservation reports. The building was designed not to obstruct sight lines to/from Claremont Rd and Essex Ave. intersections. Studies done for the county will be added to the engineering drawings. A traffic expert will testify as to the parking layout; where maids and maintenance personnel will park, etc. Lighting will be 3000K LED. The amenities deck height is at elevation 428'.

Board members and/or professionals that questioned Mr. Gimigliano: Chairman Greenebaum, Mr. English, Mr. Sedlak, Mr. Carton, Mr. McDowell, Mr. Brightly and Mr. Szabo.

There was insufficient time for questions from the public, which were asked to be held until the next hearing of this application, which was announced will be continued on October 15th.

B. Review 9/17/18 Bills List with Vouchers:

Motion to pay bills in the amount of \$1,420.00; Mr. Sedlak. Second: Mr. McDowell.

Roll call vote:

All members voted in the affirmative.

- 8. Pending Applications:** The Board acknowledged the following pending application and its status:
Application #18-09 MIKAEL SALOVAARA – 170 Dryden Road, B:2, L:7, Zone: R-1-10; Bulk variance for solar panel addition in front yard; Received 8/23/18; Pending completeness review.

- 9. Executive Session:** None.

- 10. Comments from Members:** None.

- 11. Comments from Staff:** None.

12. Adjournment:

A motion to adjourn was made by Mr. English.

Second: Ms. Kramer.

Voice vote:

All members voted in the affirmative.

Chairman Greenebaum adjourned the meeting at 10:57 pm.

Respectfully submitted,

Frank Mottola, Planning & Zoning
Boards Administrative Officer

Keywords: OPMA-statement-Claremont-Manor-Rossi-Masucci-Gimigliano-Essex.