

**Minutes of the
Unified Planning/Zoning Board of Adjustment
February 5, 2024
7:00 PM**

A regulatory meeting of the Unified Planning/Zoning Board of Adjustment of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, NJ on February 5, 2024 with Chairman George Ciupinski presiding. Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by publishing notification in *The Asbury Park Press* on January 18, 2024, by sending notice to *The Independent* and by posting. A copy of said Notice is and has been available to the public and is on file in the office of the Borough Clerk. A copy of said notice has been sent to such members of the public as have requested such information in accordance with the Statute. Chairman Ciupinski called the meeting to order at 7:00PM.

Chairman Ciupinski requested everyone to stand for the Salute to the Flag.

Chairman Ciupinski requested a roll Call.

On roll call the following members responded present:

Yes: Sharen Laporte
Joseph Urciuoli
George Ciupinski
Paul Kelahan
Kurtis Roinestad
Kathleen Sporer
Adeel Salam
Sandy Johns

Absent – Ricky Butler, Joseph Altomonte and Deana Gunn

Present: Ronald D. Cucchiaro, Esq. PE., P.P, Planning/Zoning Board Attorney
Lou Ploskonka PE, and Ronald J Reinertsen, PP, AICP. Planning/Zoning Board Engineer

Mr. Cucchiaro announces that the scheduled applicant, Angelo Spargifiori has requested his application be carried to the March 4, 2024 regularly scheduled Planning Zoning meeting. This will be a live meeting at Borough Hall, 7 PM, with no further notice to the public.

Applicant(s)

AMBMB Enterprises, LLC – 340-344 Main Street, Block 51, Lots 1 and 2
(Use Variance & Site Plan with “d” and “c” variances)

Peter Wolfson, attorney for the applicant addresses the board stating that the proposed lots are located at 340-344 Main Street - Lots 51, Block 1 and 2. Each lot is located in different zones.

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Lot 1 is located in the GB (General Business) Zone and Lot 2 is located in the R-50 I (Single Family Residential) Zone. The applicant is seeking preliminary and final site plan approval with “c” and “d” variance relief to demolish the existing structures on the property and construct a gasoline station and convenience center with other various site improvements.

At the initial public hearing, which was heard on December 5, 2023 we presented testimony and exhibits from our professionals James Thaon, Engineer, Micheal Elkin Architect, Paul Goings Traffic Engineer and Kate Keller Professional Planner. All of these professionals have returned tonight, as per the Boards request, and will be available for questioning.

We heard about the use the applicant proposes and how the property will be situated. Following the first board meeting we submitted updated architectural plans to illustrate the testimony, we heard the boards comments and concerns and have taken great care over the past two (2) months in addressing those concerns. We have worked with the Police Chief, and the Historic Sites Commission to address comments made in their respected reviews. He also states the applicant, on his own imitative, authorized a licensed surveyor to conduct a ground penetrating radar study along the property line where the cemetery exists based on the comments heard regarding the proximity of head stones along the boundary line. To confirm that this development would not disturb any existing burial plots. This was also a request from the Borough’s Historic Sites Commission, issued in a memorandum dated December 27, 2023, requesting such a study. This applicant had the study conducted quickly and meet with Mr. Orr, from the Historic Sites Commission to present the findings in early January of 2024. As requested by Mr. Orr at the time of the meeting, the applicant authorized an additional ground penetrating radar study over the entire property and then again shared the results with the HSC. Following an email request from the HSC on January 29, 2024 the applicant has also agreed to revise the post fencing along the property line and to take other steps as to be respectful to the and protective of the burial sites that are along the boundary line. Part of the existing fence line, which is a couple feet off the property line onto the applicant’s property, will remain to provide an additional buffer to protect the burial plots located on the cemetery property closest to the property line. In addition, there was contact made with the Police Chief and an updated memorandum has been received from him dated December 29, 2023, that was directed to the board. Since that memorandum the applicant has addressed many of the Chiefs comments and them met with the Chief again to discuss the revision to the access drive in which he was concerned.

Mr. Wolfson call his first witness James Thaon. Mr. Cucchiaro reminds Mr. Thaon that he is still under oath. Mr. Thaon introduces a grading exhibit, marked as Exhibit A-3, dated February 5, 2024. Mr. Thaon has been working with the Historic Sites as well as the Police Department and understanding the concerns of the Board and have addressed these concerns in this Exhibit A-3. Particularly in the shared property line with the cemetery on the western side of the site. There were concerns from the Historic Sites in their letter about the proximity of some of the tombstones to the property line. The applicate then authorized a ground penetrating radar study as well as additional survey analysis along the western property line and throughout the rest of

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the property. What they have shown on the northwesterly corner of the site and in two (2) locations along the western property line are the closets points that existing tomb stones to that property line, those were dimensioned on the plans. The applicant then worked with the results of the study and the Historic Sites Commission and came to an understanding where the applicant proposed a modified location of the fence. The existing fence line of the cemetery was looked at and determined that it would be left as is and a new board on board fence would be replaced in its existing location.

Mr. Thaon also testifies that as part of the coordination with the Police Chief's letters and the Traffic Coordinator, they did meet with them on two (2) occasions to discuss the traffic analysis and the ability to further prohibit vehicles from making maneuvers into the site that are not allowed. Therefore, they are provided transitional curbs at the entrance driveways to the site at two (2) locations in order to inhibit the maneuverability of vehicles from making illegal left hand turns into the property off New Brunswick Ave and Main Street, at the driveway that is closest to the intersection. Adequate signage will also be provided for an added layer of protection to prevent vehicles from making left turns into the property.

Mr. Thaon introduces an Ariel Rendering of the site plan dated December 12, 2023 as Exhibit A-1, and testifies that the subject property, 340-344 Main Street, also known as Block 51, Lots 1 & 2. Lot 1 is located in the (GB) General Business zone and Lot 2 is located in the (R-50 I) Residential zone. To the North of the property is New Brunswick Ave (County Road 516), to the West is Mount Pleasant Cemetery, to the East is Main Street (Route 79) and to the South is a residential home. Currently Lot 1 contains two existing buildings that have been used for commercial purposes and at some point, was utilized as a gas station which is what will be proposed tonight. Lot 2 was used as storage for mulch, gravel and other materials that could be purchased and picked up by customers.

To back pedal slightly in regards to the site, the applicant has agreed to do some pre-construction testing by the areas of concern, particularly by the property line even though they are not going past the fence line. This is known as the belt and suspenders approach, which is a test pit at the proposed depth of the construction to ensure that there is nothing that would be impacted in that location. Though the analysis that was submitted as part of this GPR study there were three (3) "anomalies" that were showing up on the radar in the approximate part of the southern side of the site that would also be investigated prior to the start of construction to identify, if in fact, if there are any graves existing and can be appropriately dealt with if they are encountered.

Mr. Wolfson states they do not believe that the anomalies that showed up on the GPR study are not consistent with what one would expect to be graves necessarily. The level of excavation that is necessary for the site would not interfere with the depth that the anomalies are located.

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Chairman, George Ciupinski questions the three (3) anomalies that showed up on the GPR study and the consistency of their depth being in relation to the depth of a typical grave site and the additional test to determine their identity. In response Mr. Thaon states that the analysis determined that they are not consistent with what would be a grave site, however prior to construction those areas would be investigated to verify the findings.

Mr. Cucchiaro questions that “if” this application were to be approved and the “test pit” reveals that there are human remains on the subject property, what would be the next step. In response Mr. Wolfson responds that the next step pursuant to NJSA452723 the human remains found on the property will be removed by the owner of the property, and the remains properly reburied in the cemetery. Mr. Cucchiaro’s states if remains are found according to the statute, a condition would be placed that the Borough need to be noticed and provided the details of the relocations process to confirm resolution compliance.

Mr. Wolfson calls Brian Holder, Control Point Associates, Director of SUV, to testify. Mr. Cucchiaro swears in Mr. Holder and the board accepts his credentials. Mr. Holder explains that Control Point was hired to scan the two proposed lots, with the ground penetrating radar, to identify potential burial sites. The scan was performed in a grid pattern at 6” apart, meaning they collected data every 6 inches across the entire site. After the scan was completed, 3 anomalies appeared that were not identifiable. These anomalies could be any type of material that is under the ground but they are not certain. Based on the size and depth of the anomalies that were detected they do not feel that they are burial sites. Most were 24” in diameter or less and a depth of about 5 to 6 feet. Mr. Holder continues that in his experience most burial sites tend to be 30 – 40 inches to the top.

Mr. Holder explains the data will reveal an arch shape, known as an anomaly, where something is located. It cannot tell a difference between a coffin, a body or a pipe. It is through the analysis of the size of the object, where it is located and at what depth, that determine what the object may be. If there is a burial present, absent of a coffin, then ground penetrating radar will not be an effective solution. He is not aware of any detection device that would find just bone fragments. GPR is only effective within two (2) years of a burial, after that it becomes more difficult. All of the existing graves in the cemetery showed up on the radar and used as a comparison.

Mr. Wolfson reiterates that if any human remains were to be found on the development site during construction, the applicant will relocate the remains to the cemetery.

Mr. Cucchiaro clarifies regardless of a development application, under that statute cited, the property owner would have the right, if it so desired, to relocate any graves subject to the law. It is not triggered by a development application, there is a process if the owner of the property wishes to avail themselves of this.

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Curtis question if the GPR was performed only on the exterior of the building. Mr. Holder replies that they did attempt the study on the interior of the building, but with re reinforcement inside of the concrete foundation it prevented a clear signal, therefore it was not successful on the interior of the building.

Mr. Wolfson informs the board that once the buildings are demolished, test pits will be conducted under the structures.

Mr. Ciupinski opens the floor for public for questions and comment.

Mr. Cucchiaro swears in John Lazar – 39 Prospect Place, Matawan - Mr. Lazar reviews the history of the cemetery. He believes that the property owner intends to disrespect the history by rushing a gas station without knowing what is in the ground. He feels that every grave should be marked out and accounted for along the property line prior to any development requested by the Historic Sites Commission on multiple occasions. He also believes that this vote will set a precedent on whether Matawan cares about our history. Mr. Wolfson requests to make a comment and states that he respects Mr. Lazar's passion for the town's history but he feels that some of his statements were untrue and unfair for the record.

Mr. Cucchiaro swears in Robert Meyer – 821 Arbordale Drive, Cliffwood Sch.– Mr. Meyer states that he is the State President of the Sons of the Revolution in NJ, he states that the back part of the cemetery where the fence ends and the property continues was left unfenced intentionally to not disturb grave sites that were directly located on and past the property line and feels that they should not be disturbed.

Mr. Cucchiaro swears in Thomas Geran – 114 Duda Lane, Aberdeen. Mr. Geran states that four (4) of the graves in the cemetery are family members, one is of his great-great-grandfather, which is located closest to the property line. (The Historic Sites has submitted pictures of these grave sites into evidence previously) Mr. Duda wants his grandfathers, as well as his family's grave sites treated with respect as they deserve for their service.

Mr. Cucchiaro swears in Jeffrey Gray – Main Street, Matawan – Mr. Gray expresses his opposition to the project.

Mr. Cucchiaro swears in Barry Orr – 14 Ravine Drive, Matawan. Mr. Orr introduces himself as the Vice Chair of the Historic Sites Commission – The Committee has been conversing with the applicant and team of professionals for months and all of the requests have been accommodated but a more recent concern is that the fence line nearest the graves in question and the property line are not aligned. After looking more into the issue of divergent and going through some older Monmouth County documents, a survey from 1979, of the cemetery was discovered and examined carefully. This newly found survey seemed to have a difference to that specific part of the property line causing there being two (2) surveys with two (2) different property lines. Mr.

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Orr further states that he would like to have a surveyor evaluate these to see if they warrant the need for a new, up to date, survey of the cemetery to confirm the exact location of the property line. He also believes that a new survey of the cemetery would benefit the Borough for other encroachments from neighboring properties. This is also needed before any other repairs can be conducted on the property.

Mr. Ciupinski announces a ten (10) minute recess to allow Mr. Wolfson and his professionals to view and access these newly founded documents.

This new survey has been marked into evidence as Exhibit P-1, and submitted to the Board for review. Mr. Wolfson recalls Mr. Thaon to testify. Mr. Thaon confirms with Mr. Orr that this new survey was downloaded from the Monmouth County website. During the break and after finding this record document, confirmation has been made through the document references page number and the notes associated with the document specifying the DOT and Deed number numbers, there for they believe that the applicant does have the correct survey in the record and that they are one in the same. Mr. Orr also states that he is not happy with this proposed use of the property and it being the front face of the cemetery. He also understands that he can stop development on the site but he wants the board to take into confederation the Master Plan and history of the town.

Mr. Cucchiaro swears Robert Galvin – 13 Ryer Lane, commends the board and states what good job the town has done with development. He believes that the applicant is doing what he can to preserve the integrity of the cemetery and with proper execution they can accomplish both.

Mr. Cucchiaro swears Anthony DaSilva – 348 Main Street, Mr. DaSilva is concerned with his property, which is directly located next to this proposed site, and that he would have an issue selling a house next to a gas station. As well as the already congested area and the time it takes him to currently exit his driveway, along with the frequent accidents at the intersection. He feels that there are already too many gas stations in Matawan and that the site should be restores as a historic site.

Mr. Cucchiaro swears Margaret Montone – 36 Willow Ave, feels that the there is a traffic problem there already. This is the only route for them to get out of their neighborhood. The light at the intersection is brutal and making a left turn onto 516. She feels likes something that enhances Matawan should be on the property not a gas station.

Mr. Cucchiaro swears Theresa Marte – 25 Mark Drive, also feels that the area is already highly congested.

The applicant's attorney requests a five (5) minute break.

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Mr. Cucchiaro swears Antoine Mbassat, applicant and owner of LaMadonna. Mr. Mbasset address the board and requests the board to grant him this opportunity for the development and to be fair.

Mr. Wolfson closes by stating that the applicant has done everything that has been asked of him in respect for the cemetery. This site historically had been a gas station and it is a permitted use for this site. And he asks that the board favorably acts on this application.

Chairman Ciupinski states that the board would like to postpone a vote to the March 4, 2024 meeting in order for them the opportunity to absorb all the information and testimonies heard tonight.

Mr. Cucchiaro announces that Ent. LLC is being carried to the March 4, 2024 meeting at 7:00 PM, without further notice. The Board has heard all testimony and this will be for a Vote Only.

Approval of Minutes

Chairman Ciupinski requested a motion to approve the minutes of November 11, 2023, Mr. Urciuoli made the motion, seconded by Ms. Sporer. Board agreed. Motion passed.

Adjournment

Chairman Ciupinski requested a motion to adjourn. Mr. Urciuoli made the motion, seconded by Ms. Sporer. The Board agreed. Motion passed.

The meeting was adjourned at 9:35 PM.

Cheryl Adamski
Recording Secretary