

**CITY OF BEVERLY
BURLINGTON COUNTY
STATE OF NEW JERSEY**

**LAND USE BOARD
REGULAR MEETING
AUGUST 18, 2021 – 7:00PM**

MINUTES

The Regular Meeting of the Land Use Board of the City of Beverly, County of Burlington, and State of New Jersey was held on the aforementioned date with the following in attendance: Diane Benson, Maureen Cronin, John Haaf, Vice Chair Barbara Kelly, Robert E. Lowden, Jr., Mayor Randy H. Miller, Ronald V. Paice, Chairman Harold Robertson, Richard Wolbert, Board Solicitor Chuck Petrone, Esq., City Planner Edward Fox, III., and Board Secretary Caitlin Midgette.

Chairman Robertson called the meeting to order at 7:00PM and read the following opening statement into the record:

“The Provisions of the Open Public Meetings Act have been met. Notice of this meeting, Resolution 2021-1, was published in the Burlington County Times on January 31, 2021, transmitted to the Courier Post, filed with the Municipal Clerk, and was mailed to all persons who requested and paid for such notice.”

The above was followed by the Flag Salute and Roll Call.

Mayor Miller arrived to the meeting at 7:01PM.

MINUTES

– June 16, 2021

A motion was offered by Mr. Haaf and seconded by Ms. Kelly to approve the above listed set of minutes. Motion carried.

OLD BUSINESS

Public Hearing: 440 Cooper Street – Block 1168, Lot 4

This application is to allow for the development of two (2) residential units and one (1) commercial unit on the first floor, two (2) residential units on the second floor, site improvements, and a cross access easement with 438 Cooper Street for a 25ft access aisle for each lots' parking areas.

Public Hearing: 444 Cooper Street – Block 1168, Lot 5

This application is to allow for the development of two (2) residential units on the first floor to the existing one (1) residential unit on the second floor (for a total of 3 residential units), in addition to two (2) first floor commercial units, one (1) garage in separate structure, and site improvements.

Board Solicitor Chuck Petrone stated that though there was a noticing error regarding the aforementioned applications, the applicant has elected to have the corrected notice posted on the City's website and posted at the front entrance of the Municipal Building. Additionally, as the above applications contain use variances, Mr. Lowden and Mayor Miller are not eligible to participate in tonight's vote.

George Hulse, Esq., attorney for the applicant, stated that the site plans have been revised per the issues raised in City Planner Edward Fox's recent review letter, and that he plans to present both applications together as they are similar in nature. Mr. Hulse explained that the major points of the applications are as follows: both 440 and 444 Cooper Street will require a use variance to have residential units on the first floor; 440 Cooper Street will require a bulk variance or a RSIS exception for parking; and a cross-access easement will be established between 438 and 440 Cooper Street for shared parking access.

Mr. Hulse stated that William H. Nicholson, the applicant's licensed engineer and planner, will provide sworn testimony for tonight's applications, and that Ms. Georgine Sarro, property manager, and Kenneth O'Neil, part owner of said properties, are willing to testify as witnesses if necessary.

Additionally, Mr. Hulse stated that the exhibits to be used for the presentation on tonight's applications are the two (2) review letters provided by Environmental Resolutions Inc. dated August 12, 2021, as he plans to address each concern listed in said correspondences before the Board.

Board Solicitor Petrone swore in Mr. Nicholson.

Mr. Hulse requested that Mr. Nicholson detail why both 440 and 444 Cooper Street should be granted a use variance to have residential units on the first floor. Mr. Nicholson summarized the positive criteria for a use variance as follows: the units will be deed restricted and affordable; the size and shape of the units that will be used for residential purposes are not conducive for commercial use; there is easy access to the light rail train station for transportation; the 2014 Master Plan reexamination supports mixed-use redevelopment zones; granting said use variances will not negatively impede the surrounding neighborhood; and the use variances satisfies the purpose of the Municipal Land Use Law. Mr. Nicholson stated that he does not believe there to be a negative impact from the granting of a use variance to establish a residential use on the first floor of each property.

Mr. Hulse asked Mr. Nicholson to explain the general layout of the first floor of each property as designed in the submitted site plans. Mr. Nicholson stated that the residential apartments and access to same will be situated to the rear of the property, with the commercial units and access to same located in the front of the structures.

Mr. Hulse requested that Mr. Nicholson provide a brief description of mixed-use zoning in the City of Beverly. Mr. Nicholson stated that though he is not specifically familiar with all of the mixed-use properties throughout the municipality, the proposed plans for the subject properties are consistent with transitional mixed-use.

Mr. Hulse inquired if the lot area and setback requirements for both properties conform to the Zoning Code. Mr. Nicholson stated that each property conforms or has pre-existing conditions relating to said requirements, and that though the initial impervious coverage for 440 Cooper Street was calculated incorrectly, the coverage amount still conforms to what is allowable in the Zoning Code. Accordingly, no bulk variances related to lot area or setbacks will be required for either property.

Mr. Hulse, regarding 440 Cooper Street specifically, asked Mr. Nicholson to explain the parking requirements for same. Mr. Nicholson stated that there are 7 available parking spaces on the property, though 8.7 spaces are required. Mr. Nicholson noted that the review letter provided by the City Planner stated that 10 spaces are required according to RSIS standards. Accordingly, a parking variance or RSIS exemption will be required for 440 Cooper Street. Mr. Hulse requested that Mr. Nicholson provide the Board with reasons why a parking variance or RSIS exemption should be granted. Mr. Nicholson summarized the following: the light rail is in walking distance from the property; an affordable housing deed restriction typically correlates to less vehicle use; street parking is available; a cross-access easement with 438 Cooper Street will be established to allow for shared parking between the properties; and that due to the size and shape of the lot, it would be an undue hardship to reconfigure the property in such a way to allow for additional parking spaces.

Mr. Hulse further noted that the review letter for 440 Cooper Street requests that the parking areas be paved and curbed. Currently, no curbing exists, and the parking areas consist of stone gravel. Mr. Nicholson expressed that a variance for same should be approved, as the gravel is a pre-existing condition and is well-maintained by the property management.

Mr. Hulse stated that according to the City's regulations regarding commercial zones, a designated loading space is required, and asked Mr. Nicholson to explain why a variance should be granted for same. Mr. Nicholson stated that the commercial units are very small, and that any business related loading or unloading will be done by small vehicles. Additionally, the adjacent roadways are too narrow to establish a proper loading zone.

Mr. Hulse explained that the review letter for 440 Cooper Street stated that one (1) ADA parking space is required for the property's commercial units. Mr. Nicholson testified that a variance should be granted for same, as the commercial units are situated in the front of the building, but the parking area is behind the structure. After slight discussion, the applicant agreed to establish one (1) paved, ADA compliant, and van accessible parking space in the back parking area of 440 Cooper Street. Mr. Paice inquired if the ADA parking space will be included within the seven (7) total planned parking spaces. Mr. Fox confirmed same.

Mr. Hulse, regarding the required curbing along Elizabeth Street for the 440 Cooper Street parking area, asked Mr. Nicholson to explain why a variance for the curbing should be granted by the Board. Mr. Nicholson stated that the parking lot will not be frequently used, and consists of heavy gravel, which should result in less gravel movement into the roadway and walkway. Additionally, certain sections of the gravel will be removed and replaced with greenery adjacent to the sidewalk on Elizabeth Street. Mr. Wolbert asked for confirmation that there will be sufficient separation between the sidewalk and the graveled area as required per City Ordinance. Mr. Fox stated that the aforementioned landscape buffer satisfies City regulations. Additionally,

as the City's Public Safety Director, Mr. Wolbert requested that the landscape buffer consist of smaller bushes for better police visibility.

Mrs. Cronin requested testimony regarding the waiver request for trash and recycling enclosures.

Board Solicitor Petrone swore in Ms. Georgine Sarro, whose address is 432 Wilmerton Street in the City of Beverly. Ms. Sarro is the property manager for 440 and 444 Cooper Street.

Ms. Sarro explained to the Board that currently, maintenance personnel are responsible for taking trash and recycling containers to and from the curb for collection for both residential and commercial units at 440 Cooper Street and other properties along this roadway that are owned and operated by the same applicants. The same procedure will be implemented for both commercial and residential units at 444 Cooper Street. The receptacles used are standard trash and recycling totes, and thus far, there have been no issues or complaints regarding the way trash and recycling collection are handled at these various properties.

Mrs. Cronin inquired as to why 424 Cooper Street, also owned and operated by the same applicants, has a trash and recycling enclosure, but 440 and 444 Cooper Street do not. Ms. Sarro stated that 424 Cooper Street not only has a larger amount of units, but the lot itself is larger and could accommodate a receptacle enclosure.

Mr. Hulse stated that due to the size of the lots at 440 and 444 Cooper Street, the installation of a receptacle enclosure(s) will take away from the limited parking areas.

Mr. Wolbert noted that City Ordinance simply requires that receptacles be screened from public view. Mr. Fox stated that the City's 2007 Redevelopment Plan does require enclosures; however, the document also anticipates large scale development with the need for dumpsters. In the case of tonight's applications, screening would be more appropriate. Additionally, Mr. Wolbert noted that the City has had issues with illegal dumping in every trash enclosure that has been installed in the municipality. Mr. Hulse recommended that the City professionals work with the applicant to install appropriate landscape buffers for receptacle screening at both 440 and 444 Cooper Street. This was agreeable to both parties.

Regarding the need for lighting at both properties, Mr. Fox stated that in lieu of a formally submitted lighting plan, it is his understanding that the applicant has opted for night lighting function tests. Mr. Hulse confirmed that the applicant is agreeable to same. Ms. Sarro noted that there is street lighting on both Cooper Street and Elizabeth Street that provide sufficient night lighting to the front and back areas of each property. Additionally, front wall lighting will be installed on both 440 and 444 Cooper Street.

Regarding 444 Cooper Street, Mr. Hulse asked Mr. Nicholson if the plans meet the required setbacks. Mr. Nicholson confirmed same, with the exception of one setback that is pre-existing.

Mr. Hulse requested that Mr. Nicholson explain the parking requirements for 444 Cooper Street. Mr. Nicholson stated that per RSIS standards, the property requires 9.8 parking spaces. Currently, 14 spaces are provided for, which includes one (1) space in the existing garage and plans for an ADA handicap compliant area. Accordingly, a parking variance is not required for 444 Cooper Street.

Furthermore, Mr. Hulse asked that Mr. Nicholson explain if 444 Cooper Street conforms to paving and curbing requirements as set forth in the City Planner's review letter. Mr. Nicholson stated that the back portion of the lot is already paved, and that excess impervious coverage will be removed to install a lawn area and greenery. Additionally, Mr. Nicholson explained that no curbing currently exists on the property, and that in his opinion, there will be no substantial detriment should the Board grant a variance for curbing requirements.

Finally, Mr. Hulse stated that the applicant is also proposing that the existing fence along the front of 444 Cooper Street be moved forward to sit in line with the front yard fencing installed along 434 to 438 Cooper Street for a cohesive appearance. The purpose of the fence will be to prevent thru traffic. Mr. Hulse distributed current photos of the fence to the Board and City professionals. Slight discussion ensued on whether the installation a 6ft fence within the front yard setbacks is permitted in the C-2 zoning district. Mr. Fox recommended that any motion of the Board on the application include that the proposed fence at 444 Cooper Street conform to the City's Zoning Code, as the fence was not a part of the original application package. Mr. Hulse stated that the applicant will file a zoning permit for same before installation to ensure that the fence will be permissible. Both parties agreed.

In conclusion to his presentation, Mr. Hulse stated that the applicants will also be filing plans with the County of Burlington since both properties sit on a county-owned road.

Mr. Fox requested that Mr. Hulse address stormwater management concerns for both 440 and 444 Cooper Street. Mr. Nicholson stated that there appear to be functioning drainage inlets in the back of both properties, and that the proposed site plans will not exasperate any stormwater runoff concerns. Additionally, the removal of excess impervious coverage at 444 Cooper Street will help to improve drainage in the area. Ms. Sarro confirmed that there have been no flooding issues on the properties. In response, Mr. Fox requested that the applicant provide maintenance to the inlets to ensure that they remain functional, and that the inlets be subject to inspection by City professionals. The applicants were agreeable to this request.

Mr. Fox asked if the applicants would be willing to install Knox boxes for first responder use. Mr. Wolbert stated that no Knox boxes have been installed within the City, nor does an ordinance exist that requires same. Additionally, the Fire Department is not currently equipped to operate a Knox box system.

Mr. Fox inquired if the applicants will allow for Title 39 for both 440 and 444 Cooper Street. After slight discussion, it was determined that Title 39 will be granted to the Police Department.

Lastly, Mr. Fox asked the applicants to confirm that the residential units at 440 and 444 Cooper Street will be deed restricted for affordable housing. Mr. Hulse confirmed same. Mr. Haaf inquired as to why the applicants are opting for deed restricted units rather than market value, and how long the properties will be under deed restriction. Board Solicitor Petrone stated that the deed restrictions remain in effect for a period of 10 years.

Board Solicitor Petrone swore in Kenneth O'Neil, 514 Jefferson Street, Hoboken, New Jersey 07030, to provide testimony regarding affordable units as part property owner.

Mr. O'Neil stated that the property owners have always opted for deed restricted units, as it's a way to give back to the community. Mr. Hulse stated that there is a need for affordability in the City of Beverly, and that all residential units owned and operated by the applicants are of very good quality.

At this time, Chairman Robertson asked the Board if there were any further comments or questions on the applications for 440 and 444 Cooper Street.

Mrs. Cronin stated that she found the presentation to be detailed and informative.

Mr. Haaf inquired if there has been an interest in the commercial units. Ms. Sarro stated that there is interest, though no agreements have been solidified.

Mr. Fox reiterated that though he and Mr. Nicholson determined slightly different parking requirements for 440 Cooper Street, it does not change the nature of the testimony provided by the applicants.

Mr. Wolbert noted that the drainage system installed behind 440 and 444 Cooper Street was required by the County of Burlington to ensure that stormwater runoff drained to Elizabeth Street rather than Cooper Street.

Mr. Paice suggested that should the proposed fence be installed at 444 Cooper Street, the same could be used as a screening for trash and recycling containers.

Chairman Robertson, regarding the variance request for curbing, inquired as to how the City will handle any gravel movement from the parking area of 440 Cooper Street to walkways and roadways. Mr. Wolbert stated that the City's Code Enforcement Officer will address this issue should it arise.

There being no further comments or questions from the Board or professionals, a motion was offered by Mr. Haaf and seconded by Mrs. Cronin to open the public hearing on the applications for 440 and 444 Cooper Street.

Cynthia Robertson, 179 Warren Street in the City of Beverly, was sworn in by Board Solicitor Petrone. Mrs. Robertson commented favorably on Ms. Sarro's property management abilities, but stated that she disagrees with the applicant's request for a parking waiver at 440 Cooper Street, as there is already limited street parking available in the area.

There being no further comments, a motion was offered by Mr. Paice and seconded by Mr. Haaf to close the public hearing on the applications for 440 and 444 Cooper Street. Motion carried.

A motion was offered by Mr. Haaf and seconded by Mrs. Cronin to approve the use variance applications for 440 and 444 Cooper Street for residential uses on the first floor of each property, together with any other waivers, bulk variances, and agreed upon improvements, inspections, and stipulations identified at tonight's meeting, in addition to minor site plan approval, which shall be subject to review and approval by the County of Burlington. Moreover, the parking variance for 440 Cooper Street shall be subject to the approval of the cross-access easement with 438 Cooper Street. The motion carried on a Roll Call Vote, as follows:

Aye: Benson, Cronin, Haaf, Kelly, Paice, Robertson, Wolbert
Nay:
Abstain:
Absent:

NEW BUSINESS

No new business was presented at this time.

CORRESPONDENCE

No correspondence was presented at this time.

BOARD/PROFESSIONAL COMMENTS

No comments.

PUBLIC COMMENT

A motion was offered by Mr. Haaf and seconded by Mr. Paice to open the public comment portion of the meeting. Motion carried.

There being no comments, a motion was offered by Mr. Paice and seconded by Mrs. Cronin to close public comment. Motion carried.

ADJOURNMENT

A motion was offered by Mr. Paice and seconded by Ms. Kelly to adjourn the meeting. Motion carried. Meeting adjourned at 8:42PM.

Approved:

Respectfully Submitted By:

Harold Robertson, Chairman

**Caitlin Midgette
Land Use Board Secretary**

Approved: September 15, 2021