

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
APRIL 10, 2013**

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:00 PM in the Municipal Building, 423 Warren Avenue, Spring Lake, NJ.

Chairman Nicholas Sapnar called the meeting to order, led everyone in the Pledge of Allegiance to the Flag and announced that this meeting is being held in accordance with the Open Public Meetings Act and adequate notice has been published and posted per Chapter 231 P.L. 1975.

The Board Secretary called the roll for attendance. Present were Joseph Rizzo, Larry Iannaccone, Michael Burke, Ph. D., Cindy Napp, Walter Judge, Priscilla Reilly, Melissa Smith Goldstein, Matthew Sagui, Kathleen Scotto and Chairman Nicholas Sapnar.

Motion by Judge, seconded by Rizzo, that the minutes of the March 13, 2013 meeting with revisions, be adopted. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

Resolution #15-2013 Builione

Motion by Sapnar, seconded by Judge, that Resolution #15-2013 Builione, that the variance be approved. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None No. Motion carried.

Resolution #16-2013 Pure Ventures, LLC

Motion by Sapnar, seconded by Sagui, that Resolution #16-2013 Pure Ventures, LLC, that the variance be approved. On roll call Board Members Rizzo, Iannaccone, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Amended Ordinance No. 2013-006 Review

The Board discussed the proposed Amended Ordinance No. 2013-006, an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Mr. McGill stated that this is a consistency review; this ordinance amends the outdoor café section to allow the outdoor cafés to operate all year long.

Chairman Sapnar explained that it would be beneficial to the town to have outdoor café's open year round.

Motion by Sapnar, seconded by Judge, that Mr. McGill write a letter to the Council, that the Planning Board agrees this ordinance is consistent and to proceed with the adoption of this ordinance. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Ordinance No. 2013-008 Review

The Board discussed the proposed Ordinance No. 2013-008, an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Chairman Sapnar explained that this ordinance is a revision of Ordinance No. 2013-003 which was approved by the Council last night since some residents were anxious to get started on raising their houses.

Mr. McGill stated that this ordinance change will increase the finished floor to three feet above the base flood elevation. This ordinance will amend Ordinance No. 2013-003.

Mr. Burke stated that the violation for the setback of the stairs will be even worse. Mr. Judge agrees and added that the Board should comment on this in the letter to the Council.

Chairman Sapnar stated that the letter should state that the Board is in accordance with the intent of the Master Plan however suggest that the Council take a look at the stairs and landings. Mrs. Reilly explained that was discussed at the meeting however the ordinance was only introduced and will not be discuss thoroughly until the adoption meeting.

Mr. Iannaccone asked what the reason is to raise it to three feet. Mrs. Reilly answered that one of the residents requested it. Chairman Sapnar stated that at the last meeting, a resident explained that once the home is above two feet it does not make any difference; at the Council meeting no one could clearly say whether that would make a difference or not.

Motion by Sapnar, seconded by Judge, that Mr. McGill write a letter to the Council, that the Planning Board agrees that ordinance is consistent however there are concerns about the stairs and landings and to proceed with the adoption of this ordinance. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

CAL#11-2012 ZUPPICHINI
1 YORK AVENUE
BLOCK 8, LOT 6

Carried from February 13, 2013.

Mr. Rubino, applicant's attorney explained at the last meeting the Board stated that new plans should be submitted and if the plans showed all of the changes discussed that the vote would be affirmative on this application. He added that Mr. Damiano was not able to attend the hearing and if needed Mr. Damiano would be able to attend next month's meeting.

Chairman Sapnar confirmed looking at the revised plan; it meets the criterion that was discussed.

There were no question and comments from the audience.

Motion by Sapnar, seconded by Judge, that the revised plan dated March 4, 2013 and all other variances be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, and Sapnar voted Aye. None voted no. Motion carried.

**CAL#2-2013 NATIONAL LAND HOLDINGS, LLC
315 PITNEY AVENUE
BLOCK 126, LOT 11**

Carried from March 13, 2013.

Mrs. Reilly recused herself.

Mr. Rubino, applicant's attorney had the exhibits marked into evidence.

Mr. Rubino explained that the applicant at the last meeting requested a perfectly conforming subdivision; both the Board and the Board Engineer indicated that they would like to see a plan showing the two lots that were not so long and narrow but more rectangular. The Board also indicated that they would like to have one house face Glenwood Place and the other face Pitney Avenue. He explained that there would be no way of having a driveway come off of Pitney Avenue without a retaining wall since the grade increases approximately three feet. There are three variances created by this application, a depth variance for each lot for 100 feet where 125 feet are required and the change of grade with the retaining wall.

Michael Cannon, Professional Engineer was sworn in and accepted by the Board. Mr. Cannon explained that this subdivision proposal is much better than the other application; the layout is more conforming to the area. Mr. Cannon discussed the lots and explained that the driveway off of Pitney Avenue would be too steep because of the change in grade. The house in be more in line with the other houses on Pitney Avenue if it actually faces Pitney. The house and garage on the other lot will face Glenwood Place. There are no issues with this property in regards to drainage. The retaining wall goes just past the house and will disappear as it goes back into the property.

Mr. Rubino stated that his client has no objection to curbs and sidewalks; however it may look out of character for that area since there are no curbs or sidewalks along Glenwood Place. Mr. McGill clarified that there is an exception to sidewalks and curbs as they relate to sidewalks on Glenwood Avenue, because of the narrow width of the street cart ways the following street shall be exempt. Mr. Rizzo stated that on previous applications the Board has had applicants provide a sloped curb adding that the rolling curb does manage the edge condition; it keeps the paving in an orderly fashion. Chairman Sapnar agreed that a rolling curb would give the property a defined line between the street and the grass.

Mr. Rubino explained that if the application was approved the owner would like to be able to build custom homes as long as they stay within the setbacks and coverage requirements.

Mrs. Napp asked if the large trees have to be removed along Pitney Avenue. Mr. Cannon answered that there are three of them and the ones farther south will need to be removed but not all of the trees.

Mr. Burke asked about the building envelope could be larger than it is. Mr. Cannon explained that either way the house has to be twenty feet from the garage.

Questions from the audience:

Mrs. Motzenbecker, 4 Glenwood Place asked if plans for the houses will be submitted and explained that when she was going through this process she had to provide plans. Chairman Sapnar explained that the house itself will not be granted any variances so plans do not need to be submitted. Mr. Rizzo explained that on their side of Glenwood Place the lots are very narrow depth and the setback to the street is very close; the Board was concerned with those lots so that the house is not overbearing and architecturally had breaks in the façade.

Darlene Cecich, 6 Glenwood Place asked what the size of the house on lot two, it seems to be only 1700 square feet, which seems small. Chairman Sapnar answered that is only the footprint of the house.

Priscilla Reilly, 5 Glenwood Place asked if it is a requirement for the utilities to be put underground and would the pole be removed that will be located at the corner of the driveway. Mr. Cannon answered that they are not planning on removing the pole.

Comments from the audience:

Helen Motzenbecker, 4 Glenwood Place stated that she likes the rolling curbs.

Darlene Cecich, 6 Glenwood Place stated that she thinks that the rolling curbs look nice but it takes away from the lawn.

Priscilla Reilly, 5 Glenwood Place stated that there are no curbs or sidewalks on the westerly side of Glenwood Place. Mrs. Reilly discussed the plan with Mr. Matthews and she is very happy with the outcome.

Motion by Judge, seconded by Burke, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Rizzo that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Judge, seconded by Burke, that the minor subdivision with variances application be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Goldstein, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

**CAL#4-2013 WELLS FARGO
1401 THIRD AVENUE
BLOCK 86, LOT 11**

Mrs. Goldstein and Mrs. Reilly recused themselves.

Mr. Rubino, applicant's attorney had the exhibits marked into evidence.

Mr. Rubino explained that Wells Fargo facility has been at its current location approximately thirteen years; a recent change in the ordinance prohibits certain professional uses on the first floor which would include financial services on Third Avenue. He added that this is the first use variance of its kind under this ordinance change; Wells Fargo is an operating business which would like to expand.

Mr. Judge stated that the application states that the owner of the location is Wells Fargo and then asked who the real owner is. Mr. Rubino explained that the applicant is Wells Fargo. Mr. Judge stated that there is a separate location for where the owner of the property should be inserted, the application is incorrect. Mr. Rubino stated that Wells Fargo is the tenant and the owners are Marisa & Ale Corporation, 1401 Third Avenue. He added that not everything on the application that was correct and would like to have it corrected on the record.

Stuart F. Sakosits, Branch Manager was sworn in. Mr. Sakosits explained that he is the Branch Manager for the Third Avenue site. He added that Wells Fargo Advisors is an office of financial advisors and sales assistances; the primary function is to advise people on investments. There are twenty one employees, fifteen of them are financial advisors, six are sales associates, and three of the financial advisors are currently not located at this office because the building has run out of space. He currently receives credit for the work those three advisors are doing, however the manager who is now housing the employees may want to eventually receive credit if the employees are not relocated back to this location. Mr. Sakosits explained that they were fortunate enough to obtain another million dollar producer, who had his own clientele. He explained that the office will need extra space for that person and also a conference/meeting room. The conference room would be used for meetings of the staff, sales meetings and to meet with clients. The space next door has been vacant for a few years and Wells Fargo would like to expand. He added that people who work for Wells Fargo use the downtown very often from buying lunches to getting their hair done. Mr. Sakosits stated that approximately a 140 to 150 customers will visit this location per month. The hours are normally 8 to 5 however certain employees may stay later or come in on the weekends to get work done. He added that there have not been any parking issues since he has been there.

Chairman Sapnar asked if Mr. Sakosits if he was aware when the extra person was brought in that there would not be enough room for them. Mr. Sakosits answered that the lease is due to be renewed in July of this year and a decision will need to be made as to whether or not they will remain in this location.

Mr. Rizzo asked if there is another available location in town. Mr. Sakosits explained that there is a lot of computer equipment and there is a lot of responsibility legally to move the location.

Mr. Burke asked when this ordinance was passed was Wells Fargo in this location. Mr. Sakosits answered that Prudential was there who was taken over by Wachovia and then Wells Fargo.

Mr. Sakosits explained that the financial advisory is similar to a retail location. Most of the business is done when clients come into the office, they come in and buy and sell.

Mary Hearn, Professional Architect was sworn in and accepted by the Board. Ms. Hearn discussed the lot and property. There are five tenancies, four tenants and one vacant spot. There is a parking lot in the rear of the property as well as a car port. She then discussed the bulk non-conformities. The new area of the office would have a modified coffee room to make a corridor to join the two spaces, three working stations, and a conference area. She added that architecturally the inside will have the same look as the other portion of the office which is very nice.

Mr. Rizzo asked about the parking. Ms. Hearn explained that she did her calculations based on the ordinance, which is on the cover sheet.

Mr. Burke asked about the parking and if there are any issues since this use will need a lot of parking. Ms. Hearn explained that the previous witness stated that there have not been any issues with parking.

Mrs. Napp asked if there has been discussion about converting the car port in the back of the building to office space. Ms. Hearn answered no. Mr. Rubino and Chairman Sapnar pointed out that that would also need a variance.

Walter McGowan, Chief Operating Officer for Marisa & Ale Corporation was sworn in. Mr. McGowan clarified that Mary Lee Ross Rivas is the owner of Marisa & Ale Corporation with her three children. They also own two houses in Spring Lake and ten buildings/commercial properties in Spring Lake, which consists of 40 units, 24 commercial and 16 residential apartments. Mr. McGowan discussed the history of the location. He explained that after the Post Office was gone from this location it was empty for many years; Prudential finally moved in and did a great job renovating. Mr. McGowan added that the space next to Wells Fargo has been empty for a few years so they were interested in expanding. He explained that there have been chances to rent out this space before coming to the Board however they have been professional office inquiries and businesses that would compete with existing tenants. Mr. McGowan explained that Wells Fargo knew that they would need a variance to expand. He believes that this is an expansion of a very good use for very good tenants. Mr. McGowan explained that this end of town is very slow and he has not been contacted by any retailer for this location.

Chairman Sapnar asked if Mr. McGowan foresees an issue with parking. Mr. McGowan answered that the issue is that there are not enough cars he would like to see more cars.

Mr. Judge asked where Wells Fargo employees park. Mr. McGowan answered they mostly park in the back parking lot or on Madison Avenue.

Mr. McGowan reviewed Mr. Hilla's letter and stated that he would work with the town and the neighbor at the back of the property to fill in the hedge line and would also fix any portion of the sidewalk that needs to. He explained that there is a light pole in the back of the property that does not belong to them.

In Mr. Hilla's letter he suggests that the lighting be brought up to code. Mr. McGowan explained that he thought the lighting was up to code but if any changes need to be made he will fix it. He added that he will try to clean up the trash area however he already has individually marked garbage cans and each tenant was given a reclamation sticker.

Chairman Sapnar asked if there was a reason more parking spots are not in the rear toward the carport. Mr. Rubino answered that if this application is granted they will have the architect look into putting another parking spot in the rear.

Mr. Rizzo asked if the parking in the rear is for employees only. Mr. McGowan answered no.

Mr. Rubino was discussing the adjacent properties and said that it would be highly unlikely that another business would come to the Board to request a similar variance as Wells Fargo.

Chairman Sapnar asked if there are any other financial advisors or retailers in town. Mr. Rubino answered that he does not think that there are. Mr. McGowan stated that there are not any in the Marisa & Ale properties.

Mr. Burke stated that there are a few similar in town. He then asked if there was another location big enough for Wells Fargo to move into. Mr. McGowan answered that there is but it is unfinished space and would cost a lot of money. Mr. Sagui added there a lot of new regulations in regards to financial companies, there has to be a managing director in the office at all times, there are many computers and a lot of paper work and these things can not be spread all over the place.

Chairman Sapnar asked what where the terms of Wells Fargo's lease. Mr. McGowan answered that he thinks it was a five year with two five year options. Chairman Sapnar then asked what would be the terms of the new lease if this application is approved. Mr. Rubino explained that a lot depends of the outcome of this meeting, if it is approved Wells Fargo plans on putting some money into fixing up the new space and if that happens he is sure the lease would be a good one.

Jennifer Beahm, Professional Planner was sworn in and accepted by the Board. Ms. Beahm explained that this application is a D2 variance, which is the expansion of a non-conforming use which is separate from a traditional D1 use variance which lessens the burden on the applicant. She discussed the Master Plan as it relates to the expansion of this use. She feels that if this site were in a different location it would have a greater impact than if it was at the northern end of town; this is a suitable location for this type of business to expand. This business has been there for thirteen years and is different than a professional office; it is a semi-retail operation where customers do come in to the office frequently. She added that there are no major site improvements, the site will be cleaned up and maintained. This space has been vacant for two years with limited interest from retail users, by Wells Fargo expanding it would be an efficient use of land. Some much time was spent on the Master Plan to revitalize the downtown, but in spite of the ordinance that is pushing this type of use to the second floor there are a number goals and objectives that could be applied here. For example, strengthening your current businesses is a goal of the Master Plan. The overall goal is to bring retail and people, this business will do that. Ms. Beahm added that this is a minor expansion of approximately one thousand square feet, which will turn out to be a vital member of the community. She added that it would be more detrimental to have this space empty. She explained that when the Master Plan was written and inventory was done and only four and a half percent was professional offices, the business district as a whole is not shifting toward professional office district.

Mr. Rizzo asked if banks are considered retail. Ms. Beahm answered that banks are a permitted use. She added that this Wells Fargo is not a bank they are strictly financial advisors who have clients come into the office.

Chairman Sapnar stated that the ordinance is clear as to what should and should not be on the first floor. Ms. Beahm agreed that Wells Fargo indeed needs a variance; however she thinks that this is not a firm where there is no foot traffic and everything is not done by computer.

Ms. Beahm discussed the parking variance, there would be a variance required for one additional parking spot however this location has additional parking in the rear. Ms. Beahm stated that this is a unique situation because of the location, use and the expansion; how the expansion could take place would allow the existing business to operate more efficiently and to stay a significant contributor to the town. She added that she understands the concern about this application setting precedent; it does not appear that the opportunity to expand another business into the retail areas will come up; however she cannot say what other businesses may do.

Mrs. Napp asked what the negative impact would be on the other businesses in that strip. Ms. Beahm answered that it is modest expansion and she does not think it will have any negative impact.

Mr. Judge asked what if another business does not succeed and Wells Fargo would like to expand more would that be good planning. Ms. Beahm answered that there is a fine line between a modest addition and a large one which would overwhelm the district.

Mr. Burke explained that there is the Community House down the street so the area past this location is not really a transition to residential property. Ms. Beahm explained that there is residential immediately to the north. He then asked if there would be anyway for the owner to expand the building to the rear. Ms. Beahm explained that it would be more detrimental to the neighbor to the rear. Mr. Rubino explained that it would not be financially feasible.

Mr. Rizzo asked if a new tenant went into that location would the use run with the property or would it revert back to its original zoning. Mr. McGill answered that the use would have to be identical or the new tenant would have to come before the Board.

Comments:

Richard Clayton, Chairman of the Business Improvement Board of Directors explained that in 2005 the town was very quiet and this ordinance that was put into place was based off of a recommendation. He added that he applauds the Council for passing that ordinance and since then seven offices have left town and retail is not in those spaces. Last month there was a seven percent vacancy rate now it is down to three percent, there are people coming to the community to rent space. There is a reason certain sections are not being rented and is not for him to criticize why some areas of town are not being profitable and others are. He believes that offices are offices and they make the town quieter, retail on a first floor is vital. He explained that three store fronts that are open. Mr. Clayton added that an individual came in searching for a location, he then sent this person to the location where Wells Fargo would like to expand; this person said that they should not inquire about that location because it is going in front of the Board.

Dawn McDonough, explained that there are two of those three cannot be rented out currently so really just the one is vacant.

Jim Thompson, Vice Chairman of the Board stated that the Business Improvement District supports services businesses who are all Board members; the Board is in a very difficult position. He added that Morris Avenue is considered commercial properties both first and second floors and along Third Avenue the second floor can also be a commercial use and are in support of filling all of them up. He feels that the Borough should stand by the ordinances that the Council put in place because they have worked.

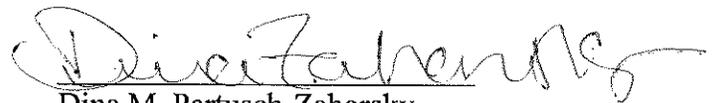
Motion by Judge, seconded by Burke, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Burke, that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Chairman Sapnar explained the applicant will have revised plans submitted and this case will be carried to May 8, 2013 with no further notice require.

Motion by Judge, seconded by Sagui, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 11:15 P.M.

Respectfully submitted:



Dina M. Partusch-Zahorsky
Board Secretary

RESOLUTION NO. 15 – 2013
(Cal. No. 1 - 2013)

RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.

WHEREAS, Todd Bullione, owner of the subject property (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for variance relief to allow areaways and a fence to remain in reference to property located at 100 Jersey Avenue, Spring Lake, New Jersey, and known as Block 79, Lots 19 on the Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of March 13, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-1 Zone.
2. The property contains 15,000 square feet of total area with 150 feet of frontage on First Avenue and 100 feet of frontage on Jersey Avenue. The property presently contains a new two-and-one-half-story frame single family dwelling, with a detached garage, swimming pool and cabana.
3. The applicant is before the Board seeking variance relief in reference to the construction of the areaways on the east and west side of his dwelling and for variance relief to allow a recently constructed five foot fence to remain along the west side yard of his property. The Borough's ordinances allow an areaway to encroach two

feet into property's set back without the need to obtain the variance. The areaway on the west side of the dwelling encroaches into the west side yard approximately two and one half feet thus making the side yard setback at that side total 12.61 feet where 15 feet is required. Similarly, the areaways on the east side of the property encroach into the front yard along First Avenue approximately three and one half feet making the front yard setback along First Avenue 21.39 feet where 25 feet is required. The applicant also constructed a continuation of his fence from the rear yard, where a fence five in height is permitted, to an area of his side yard where the maximum permitted height of any fence is four feet. Therefore the applicant seeks a variance for the fence height in the side yard where five feet was constructed and four feet is allowed.

4. The Board heard the testimony of the applicant, his architect, engineer and builder and finds the testimony provided credible that an honest mistake was made in the construction of the dwelling. As to the areaways, the Board finds that the structure is built on a bit of a berm and the applicant opted to construct a house within the height requirements of the Borough notwithstanding what arguably could be said to be a legitimate hardship effecting the land in the form of the berm. The Board finds that instead of seeking a variance to build higher than permitted, the applicant attempted to design a home with bedrooms in the basement, utilizing that lower area as living space. The type of design attempted by the applicant requires that areaways be of sufficient size to permit egress from the dwelling. The Board finds that the need to provide said egress lead to a disconnect between the applicant's architect and engineer which discrepancy was found and noted by the Borough's zoning and construction officials but not noted by the applicant's builder. The Board finds that the applicant otherwise sought to conform his plans to the Borough's ordinances in all respects and appeared to be genuinely annoyed at the fact that the dwelling did not ultimately so comply. A similar oversight was described regarding the fence in that the contractor constructing the fence apparently did not know or determine where the rear and the side yard ended and began and assumed because the fence was behind the front, it was in the rear. The Board finds that in this regard the applicant and his contractors were the sole source of the misunderstanding to the extent that any existed.

5. The Board finds that though these conditions were constructed and created without the grant of prior approvals, and that the misunderstandings were not

the fault of the Borough or its personnel, the Board may grant the relief requested now regardless of these circumstances. The Board finds that the applicant acted in good faith in designing the house in question. The Board finds that the applicant did an aesthetically meritorious job in the design of the dwelling. The Board finds that the existence of the berm on the property ultimately caused the design and construction frailties that ultimately afflicted this property and dwelling and as such the Board is entitled to rely on this condition in support of the grant of variance relief now. The Board finds that because the property contains a bermed elevation and the dwelling is built above the street grade, the areaways are virtually invisible to the public. The Board finds therefore that there will be no visual detriment to the aesthetics of the area nor will the encroachment present any sense of increased bulk in the area or along the street front. The Board also finds that the extent of the encroachment is not so substantial so as to present a substantial impairment to the zone plan. The Board finds that to the extent that the increased size of the areaways permitted the house to be built within the height requirements of the ordinance, the increased size of the areaways represents a better zoning alternative. In this manner the Board can also support the granting of the variance herein. These finding pertain to the areaways on both sides of the dwelling. In reference to the fence height the Board finds that it may approve the height in the side yard. The Board finds that it is a practical solution to a condition of the neighboring property which also has a fence of a similar height in the same area. The Board finds that by allowing the height of the fence, the property can maintain an aesthetic continuity that otherwise would not be achieved should a four foot fence be required. The Board notes that it is well aware that the applicant could not construct the areaways and fence as he did and that the applicant could be require to make the changes necessary to conform the dwelling and structures to the Code. The Board finds however that the circumstances warrant the granting of the relief requested notwithstanding the mistakes that were made during the permitting and construction process. The Board again takes the time to note the good faith of the applicant in designing the dwelling to meet the applicable standards and the unique conditions effecting this property and cautions against reliance upon this resolution to justify other such occurrences by any other person.

6. The application as proposed is in keeping with sound planning and zoning

and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan. The variance relief may be granted because the benefits and to be gained substantially outweigh any detriments and hardship exists.

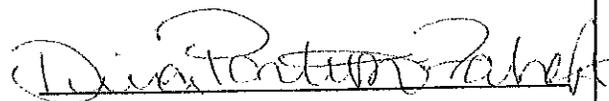
WHEREAS, The Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and the benefits of this application do substantially outweigh the detriments and that certain hardships exist.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 10th day of April, 2013, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicant prior to the issuance of a building permit.
4. That a copy of this Resolution be given to any subsequent owner of this property.

CERTIFICATION

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on April 10, 2013.



DINA PARTUSCH

RESOLUTION NO. 16 – 2013
(Cal. No. 3 - 2013)

RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.

WHEREAS, Pure Ventures, LLC., contract lessee of Unit B at the subject property (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for parking requirement relief in reference to the operation of physical fitness studio at property located at 1200 Third Avenue, Spring Lake, New Jersey, and known as Block 75, Lots 16 on the Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of March 13, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an RC Zone.
2. The property contains 6,900 square feet of total area with 69 feet of frontage on Third Avenue and 100 feet of frontage on Morris Avenue. The property presently contains a one-story masonry building that contains two commercial units fronting on Third Avenue. The two commercial units on the property have been recently renovated. The applicant is the contract lessee of one of the renovated units. The parcel is the subject of approvals for the construction of an additional retail unit which approvals were memorialized in Resolution 21 – 2012 dated December 12, 2012.

3. The approvals were granted in reference to this property as memorialized in the above-referenced resolution based upon an assertion and assumption that the parking requirement for the completed project would be 19 spaces. A parking variance was granted to the applicant in the previous application based upon a need for 19 spaces where the applicant in the previous application was proposing zero spaces. Upon review of the intended use as presented by the present applicant, the Borough's Zoning Official determined that the use proposed was a more intense use than the retail uses assumed in support of the prior parking requirement calculations and therefore referred the present applicant to the Board for the purposes of obtaining a variance to allow the increase in parking demand. The applicant herein therefore made an application to the Board for these purposes.

4. The Board finds that the use proposed is a permitted use in the zone as a personal service use however finds that there is no parking requirement that specifically pertains to the specific use proposed. The Board received testimony from its Engineer in which it was opined that the parking requirement could be reasonably calculated as being one space per employee and one space per two customers. By this calculation, using the testimony of the applicant that the operation will have no more than two employees on site, and no more than 18 persons per class, the parking requirement could be established at 11 spaces for this use. The Board accepts this methodology as reasonable under the circumstances and accepts the applicant's stipulation that the 11 spaces would be a reasonable parking requirement for such a use. The Board finds that the previous parking requirement for the subject unit was calculated to be six spaces. The Board finds accordingly that the parking provided at the property for the use proposed in this unit requires a variance of an additional 5 spaces. The Board finds therefore that the applicant requires a variance for the deficiency of these five spaces to be permitted to operate at the subject site.

5. The Board finds that the variance relief requested may be granted. The Board finds that the applicant's proposed use is of such a nature that its peak business periods occur at times that do not coincide with the traditional peak business periods of the other businesses located on Third Avenue. Specifically the Board finds that the subject use generally has its peaks in operation in the morning hours prior to 11 a.m. and again in the afternoon after 4 p.m. The Board finds that the apparent parking

demand increase for the zone is and will be largely technical in nature and will not result in actual parking congestion "on the ground". Accordingly, the Board finds that the variance may be granted without detriment to the public good. The Board further finds that the parking in the Borough's RC zone is generally of a shared nature and while the property owners are obligated to provide on-site parking for the businesses, the Board notes that there are many properties in the zone that do not have on-site parking and therefore the variance will not represent a substantial impairment to the zone plan. Finally, the Board finds that this use will be complimentary to the existing uses in zone and will serve to provide stimulus to the area during off-peak business periods. The Board finds that this will be a benefit to the zone and supports the goals of the Master Plan which, in part, seek to revitalize the downtown area and promote the businesses established therein.

6. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan. The variance relief may be granted because the benefits and to be gained by the community substantially outweigh any detriments.

WHEREAS, The Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and the benefits of this application do substantially outweigh the detriments and that certain hardships exist.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 10th day of April, 2013, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.

2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.

3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicant prior to the issuance of a building permit.

4. That a copy of this Resolution be given to any subsequent owner of this

property.

5. That the approvals granted herein are made specifically to the use and operation proposed and is based upon the specifics of same. No use of a substantially different nature shall be permitted to rely on the grant of relief contained herein.

CERTIFICATION

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on April 10, 2013.

A handwritten signature in cursive script, appearing to read "Dina Partusch", written over a horizontal line.

DINA PARTUSCH