

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Zoning Board Minutes
January 7, 2016
Regular Meeting
(Immediately followed Reorganization Meeting)**

Meeting Called to Order at 8:10PM by Chairman Barto

Open Public Meetings Statement: Read into the record by the Board Secretary.

Roll Call: Messrs. Tarantino, Cox, Forst, Ms. Metzger, Messrs. Deegan, Pappas, Rodger, Chairman Barto

Also in attendance: David L. Rutherford, Esq., Board Attorney; Mr. David Hals, Borough Engineer; Mr. Ed Snieckus, Borough Planner; JoAnn Carroll, Board Secretary.

Completeness Review:

David and Lisa Massaro, 146 Ardmore, Block 206, Lot 16: applicants seek a variance for light stanchions which have been erected in the Borough right-of-way and are in violation of the zoning ordinance which does not permit light stanchions as accessory structures; in addition, applicants seek variances for rear yard setback, building coverage and improved lot coverage for a proposed addition connecting the principal structure and the detached garage.

Mr. Rutherford: stated the applicant was before the Board this evening for a Completeness Review only; no testimony to be taken and no merits of the application to be discussed; **Mr. Delia of Wells, Jaworski & Liebman, applicant's attorney,** will take care of publishing the notice in the newspaper.

Mr. Tarantino: asked if any correspondence was received from the Mayor and Council regarding this application; Mr. Delia stated his client had received a letter from Mr. Bole, Borough Attorney, dated October 28, 2015. Mr. Tarantino requested a copy of that letter; in addition, Mr. Tarantino requested the new Zoning Officer, Mr. Mark Berninger, review the application, inspect the property and attend the public hearing.

Application deemed complete and will be placed on the February 4, 2016 agenda for a public hearing.

Resolution:

Approval: Thomas & Megan Fox, 100 Ackerman Avenue, Block 104, Lot 15: applicant seeks variances to construct a one and two story addition; non-compliance with Section 85-10(G)1 building coverage and Section 85-10(K) second floor setback.

Mr. Rutherford: reviewed the application and the resolution.

Motion to approve resolution: Chairman Barto, Forst

Ayes: Forst, Deegan, Rodger, Chairman Barto

Ongoing Business:

Ho-Ho-Kus Crossing, Jonathan L. Mechanic, 619 N. Maple Avenue, 217

First Street, 239 First Street, Block 1016, Lots 3, 5 & 11: mixed use project consisting of new residential units and retail; amended plans submitted.

Gail Price, Esq., Price, Meese applicant's attorney: stated a lot of work has been done between November's meeting and this evening relative to issues that were heard from the Board and the Board's professionals and also in regards to the Borough's affordable housing plan; she did prepare an updated exhibit list which was given to the Board Secretary; they had gotten through exhibit A46 at the last meeting and through B8; asking they be moved formally into evidence.

Chairman Barto: stated they are accepted into evidence.

Ms. Price: stated this evening she will have additional exhibits; took the liberty to mark the planner's review which was received from Mr. Snieckus and the housing memo which was received from Ms. Lonagan regarding the affordable housing; did not mark Mr. Hals' memo dated January 7, 2016; will be marked as B11; will hear updated testimony from Mr. Dipple in terms of the revisions that were made to the plan and Mr. Montoro and Ms. Dolan who will very briefly give reconfirmation of their prior testimony with regard to the revisions that have been made; Mr. Preiss will wrap things up with planning testimony; heard concerns regarding the driveway on Maple Avenue; recognizing that DEP approval is still required, and if approval is received from the Zoning Board, they will have to submit a full, revised set of plans to the Board as part of any final condition anyway; went ahead and revised the driveway to propose an ingress only with the egress on First Street; did include a design for emergency egress at the Maple Avenue driveway; met with the Board's professionals on November 20, 2015; was an extensive meeting; following that meeting the applicant supplied a summary memo in terms of everything that was agreed to do and revise; believes all items were covered; that memo was dated December 14, 2015; revised submission to the Board dated December 23, 2015; exhibit A47 consists of the full set of plans from Mr. Dipple's office bearing a revision date of December 23, 2015, 13 sheets; A48 the full set of plans from Mr. Montoro that were filed with 15 sheets; A49 was the responsive memo.

Mr. Dipple: understands he is still under oath; described the ingress driveway which was discussed with the Board's professionals; it is ingress only; it has a wider raised brick area; different pavement surface; it works with the sidewalk up against the building; should this emergency arise that the state would require an egress at a point that is as high above the flood plain as possible, this still provides that; have a 4 inch malleable curb wrapped with a brick

surface; emergency vehicles could get in; this is required if a residential property is in or near a flood hazard area; colored rendering dated 12/23/15 and is consistent with the submission date; exhibit A50 dated 1/7/16; referred to A51; stated dimensions; driveway narrowed to 15 ft.; it would be striped as ingress only; the parallel parking spaces are still proposed on the south side of the ingress driveway; configured them slightly different with some striping at the request of Mr. Snieckus; still have four spaces; moved them slightly away from the southern property boundary to give a vehicle a little bit of room to open their door and exit; there is a small retaining wall due to an increase in flood elevation that was described at the last meeting; Board's professionals advised to give some room so a vehicle could open a door and exit in order to make those spaces usable; the new configuration takes the driveway from what was 24', moved it a little bit, keeps the parking 15' ingress and then the other 7 feet is the paver area; feels the County would agree with this; feels the revisions made to the driveway adequately respond to the concerns of Mr. Hals and Mr. Snieckus; the initial change was to fix the driveway configuration and make it work; the team also looked at some of the parking; at the last meeting there was a parking lot that surrounded the core which was about midway through the building; that parking lot is effectively the same; the one difference is the easterly side was a completely raised platform; with the parking count, the section in the back, which includes about 15 parking spaces, does not require to be raised out of the floodplain; this goes back to the original design intent which was to have access off of Barnett into the small parking lot; the raised portion would be coming in off of First; there would be an area designated for residential use; the vehicles can circulate underneath the building and find parking; they would have to exist easterly and then back out to First; dropped the northeasterly parking area back down to grade as originally proposed; there are 123 parking spaces on the site; 53 of them are above the flood elevation; that is a DEP requirement; they are marked with an "R"; they would be designated residential parking spaces; a tenant would get one designated parking space per unit and they would be primarily in the area that he showed earlier; raised area against Barnett has always been a residential parking area; the others are labeled either "C" commercial which is retail; those spaces are on lot 11; Ms. Levine has the rights to 19 parking spaces on lot 11; they are shown; there are 4 that are parallel; the spaces that are on the First Street ramp would not be permitted for residential spaces; there are a number of spaces labeled with an "F" flex; they could be used as a space for retail or residential; they are above the flood elevation; lights will be replaced on North Maple with decorative lighting fixtures in a manner that are subject to approval with regards to the trees; no significant modifications to be made; there are other minor tweaks that were made to address comments made by the Board's professionals; not disagreeing with any of them; in general, does not see anything significant that needs to be changed on the plans that would really affect the character of the development or the overall scheme of the development.

Ms. Price: stated Mr. Snieckus asked that we confirm and make an additional modification to the plans to confirm ADA accessibility in the area of the curb

ramps near the elevator; asked Mr. Dipple if the plans were designed to allow for ADA compliance.

Mr. Dipple: stated it is and the plans will be updated to include the ADA ramps.

Ms. Price: stated there was a question in regards to the First Street egress as to whether the location of the proposed stop bar at the driveway would either need to be modified for clearer sight distance or whether the sign itself would need to be modified; asked if either one of those would ensure maximum pedestrian and vehicular safety.

Mr. Dipple: stated the sign can be moved back slightly if it is a concern; there is a stop bar, a light pole and a sign which are close to one another; moving the sign back for safety is paramount.

Ms. Price: stated the site plan continues to contain a proposal for retail space and 53 residential units.

Mr. Rodger: asked if cars would be towed if parked in the wrong space.

Mr. Dipple: stated any complaint would have to be addressed by management; does not believe there will be a full time staff on site; everyone that lives there will have the number to management if there is an issue.

Chairman Barto: asked Mr. Dipple if he had read Exhibit A49.

Mr. Dipple: stated he had and also was involved in writing it.

Chairman Barto: asked if it accurately represents what was agreed upon by the professionals.

Mr. Dipple: stated it absolutely did.

Chairman Barto: stated it was authored by Ms. Price; asked if the Board's professionals agreed to the terms of the letter.

Mr. Hals: stated the letter was reviewed and agreed upon; it is accurate.

Mr. Snieckus: stated he agreed as well.

No additional Board questions; no questions from the public.

Ms. Elizabeth Dolan, Dolan and Dean Consulting: understands she is still under oath.

Ms. Dolan: spoke regarding Exhibit A49; stated the access modification which Mr. Dipple described required a reanalysis; a reanalysis was submitted by Mr.

Olivo; the results show there are no changes in the intersection levels of service if we do not permit the direct egress out to North Maple; the intersection would operate acceptably; revised the shared parking analysis; 112 is the number shown as the maximum shared parking demand; considered the residential parking demand is mostly overnight and the retail demand is mostly during the day; RSIS and standard traffic engineering procedure is to look at shared parking because there are no coincident parking demand; perfect land use mix to allow for shared parking; no need to modify her November testimony; information shared with the Board this evening sums up the additional work that has been performed and that would satisfy the overall traffic and parking impact; the site circulation allows for the appropriate dimension to accommodate the vehicular and pedestrian activity; made sure that First Street can accommodate the egress activity.

Ms. Price: stated the documents which Ms. Dolan referred to were attached to Exhibit A49 and supplied with the summary memo.

Chairman Barto: stated, after reading the transcript, he was aware of questions posed at the last meeting with respect to a dead end where vehicles would have to make a k-turn to get out of the site; asked if there were any changes to the plan in this respect.

Ms. Dolan: stated there is an area toward First street which can be used for a turnaround if need be.

Chairman Barto: asked if there was sufficient room for a k-turn.

Ms. Dolan: stated yes; they could use the area described to pull in and then back out.

Chairman Barto: asked if the area would be striped to ensure no one would park in the area.

Ms. Dolan: stated it is a hatched area; it would not be a designated parking space.

Mr. Olivo, Board's traffic engineer: stated he had the opportunity to meet with the applicant's team and review the December 14, 2015 letter as well as the traffic analysis; both the traffic demand and the access management plan changes, as well as the parking management and the shared parking, do concur with the findings that the modification at North Maple would not significantly change the nature of traffic flow through the area; believes it is an excellent change to make it ingress only; concurs with the testimony regarding the k-turn.

Ms. Dolan: added that the area that was being discussed would be residentially designated spaces; they would not be parking spaces for people looking to shop in the area.

Chairman Barto: stated he believed Mr. Olivo, in one of his reports, was concerned with the size of the parking stalls; that they were somewhat smaller than what is typical; asked if he has reviewed it and if he is satisfied with them at this time.

Mr. Olivo: stated he is satisfied with the size of the spaces.

Mr. Deegan: stated he had a question regarding the traffic survey sheet; it looks as if the survey was taken from 5:15-6:15PM.

Ms. Dolan: stated it was an updated traffic count which was requested by Mr. Olivo just to identify the volume of traffic using the adjacent driveway at 611 N. Maple; we had originally found the peak hour to occur between 5PM and 6PM.

Mr. Deegan: stated he is concerned about the First Avenue and Maple Avenue intersection.

Ms. Dolan: stated in their original traffic study, dated 10/21/15, had summarized the time periods when traffic counts were performed; at the First Street intersection they were performed from 7AM-9AM and 4PM-7PM in January of 2015, and also on a Saturday from 11AM-2PM.

Mr. Deegan: stated he was concerned about surges of traffic coming from the train; wanted to make sure that traffic was captured in the studies done.

Ms. Dolan: stated that traffic was captured.

Ms. Metzger: asked if vehicles would be able to make a left out of First.

Ms. Dolan: stated yes; during those busier hours it will take longer.

Ms. Metzger: asked about visibility at the intersection to be able to see the cars that are going towards Ridgewood.

Ms. Dolan: stated she believed that was where the real concern was in eliminating egress further up.

Ms. Metzger: asked if the only concern is to be able to see when the cars are backed up on Maple.

Ms. Dolan: stated, because it is an existing condition, the Borough may want to consider a "Do Not Block the Box" where the whole intersection gets hatched out; this has been done with other applications so as the queue develops, there is a gap as opposed to cars creeping into the intersection.

Mr. Pappas: asked about traffic light; he echoed the same concern; he is skeptical; it is extremely difficult to make a left hand turn during peak hours; worried about the extra volume with this project.

Ms. Dolan: stated she didn't feel the combination of traffic volume is going to get to the requirements to warrant a traffic light; also considered is the proximity to the existing traffic signal.

Ms. Metzger: stated she was wondering that if during a certain period of time it would be prohibited to make a left turn.

Ms. Price: stated more would be heard from the County regarding this issue; they may have certain restrictions in regards to hours.

Mr. Tarantino: stated, if you come out of the exit on First Street, there is a road right near it; has never gone down that road; asked if there was a way to access North Maple going further down that road.

Ms. Dolan: stated the road is in Ridgewood; it is a residential street that basically parallels North Maple; it does run back to North Maple but doesn't believe it is a signalized location; stated because it is a long way down to the next block, and First Street is a dead end, there isn't a cut through.

Mr. Forst: stated it sounds like this has been addressed already with our professionals already, but wanted to confirm the status of the circulations regarding clearance under the building for emergency vehicles, garbage trucks, etc.

Ms. Dolan: stated the architect will discuss the absolute clearance and the dimensions, but based on everything that has been reviewed we can accommodate the trucks and it will be a private hauler also; for these types of residential settings they will determine the number of times per week that pick up is appropriate and typically they are smaller vehicles that pick up as opposed to the commercial trucks in the neighborhood.

Mr. Tarantino: asked about moving van accessibility.

Ms. Dolan: stated moving vans would be accommodated by a designated area; they are not going to fit under the building; that would be a management issue; spaces might be coned off in advance; they would have window for the actual move.

Mr. Forst: asked if this would also apply to loading and unloading of trucks.

Ms. Dolan: stated now that we have the extra concrete area along the retail building that can be used; most of the smaller retail establishments don't get many trucks; most are box trucks.

Mr. Sneickus: stated Ms. Dolan had mentioned in the past that the parking spaces would be reserved for the residents; asked if the remainder of spaces would not be reserved.

Ms. Dolan: stated that they would be designated as residential spaces but the balance would be available to whoever would need them.

Mr. Snieckus: asked if there could be a representation that the employees of the retail spaces use the parking area.

Ms. Price: stated yes.

Mr. Rutherford: confirmed they would be employees of lot 11.

Ms. Price: stated that is not a problem and it makes sense.

No public questions or comments/no further Board questions or comments.

Ms. Price: stated Mr. Montoro's 15 sheets were marked as A48; they were in the September 23, 2015 package; colored rendering of the cover sheet has been marked as A52.

Mr. Montoro: understood he was still under oath.

Ms. Price: stated the plans marked as Exhibit A48 were prepared following the meeting of the professionals and the summary memory.

Mr. Montoro: stated that was correct and that he had participated in the meeting.

Ms. Price: asked if it was Mr. Montoro's understanding that his plans, with the exception of a few minor items, address the issues that were raised by the professionals.

Mr. Montoro: stated yes; all the changes were made and the one change that was brought up in the memo will be discussed this evening.

Ms. Price: asked if the color rendering, marked as Exhibit A52, is the identical sheet to the cover of Mr. Montoro's plans with the exception of being colorized.

Mr. Montoro: stated yes, it is the same drawing that is on the cover sheet of the plans.

Ms. Price: stated she wanted Mr. Montoro to clarify a few issues for the record; stated Mr. Montoro has testified on previous occasions that the clearance from grade to the underside of the building is in fact adequate and there were no

impediments to the safe passage of vehicles; based up on the plan revisions, asked if there was any concern about that clearance.

Mr. Montoro: stated no, the building was actually raised up from the last meeting with the professionals.

Ms. Price: stated the other question she had was regarding the penthouse.

Mr. Montoro: stated a full story is not needed above the roof for the elevator; in previous testimony, we had mansard parapets, where the roof level was down near the gutter line; the parapet actually projects up if you look at the sections that are on the drawings on PB17; the parapet itself from the third floor to the parapet turns out to be 15 ft. 6 in.; the requirement for the elevator is 14 ft. 8 in., including the thickness of the roof, assuming 2 ft. for the structure; the parapet will actually screen the elevator penthouse.

Ms. Price: stated, she wanted to reconfirm for the record that there are 53 residences proposed and the 53 units are inclusive of 8 affordable units.

Mr. Montoro: stated that was correct; there are 27 on the second floor and 26 on the third floor.

Chairman Barto: asked what the distribution of the 8 affordable units was.

Mr. Montoro: stated 1-1 bedroom, 5 2-bedrooms and 2 3-bedrooms; the required distribution is 25% 1 bedroom, 26% percent 2 bedrooms and the balance have to be 2 bedrooms.

Chairman Barto: asked why the decision was made to pave over the one lot as opposed to using the platform.

Ms. Price: stated that is a question for Mr. Dipple in terms of parking area, the change in the grade, etc.

Mr. Dipple: stated effectively it wasn't really necessary to raise that portion; was caught up in a state of flux with the new flood elevations and the parking; when we emerged from discussions with affordable housing and with the shared parking concept, we realized these were all going to be flex spaces anyway or they were all going to be commercial spaces anyway and they could go back down to grade; it really just moves structure out of the flood plain and flood storage and the flood vents; it eliminates that portion of it.

Chairman Barto: asked if that was acceptable to the Ho-Ho-Kus professionals.

Mr. Hals: stated absolutely.

Ms. Price: asked Mr. Montoro if there were anything else outstanding with regard to the architectural items.

Mr. Montoro: stated there is one item regarding the band; the prior elevation did not have an additional band to drop down; showed where the building originally ended; during the last meeting and also during the meeting with the professionals, they said the opening was a little too large; it felt like the building was up on stilts; it was decided to add a 1 ft. 4 in. band to drop the front of the façade down lower so the opening is less; the revised section shown; we had agreed upon a 7 ft. 4 in. opening, we have 7 ft. 8 in; the reason is the grade he took that from was the 121 elevation which was the higher elevation, but the grade where this condition happens is 4 inches lower; we could raise the wall up 4 more inches but the reason this wasn't done (referred to PB8), the grade at the high point that goes under the building comes across and starts to drop down, that is the 4 inches of difference; the height is 7 ft. 8 in. consistently across but the wall becomes 6 ft. tall; there is a balance that is needed between where the walls getting higher and higher and keeping the distance lower and lower; the band would become thick and deep if it is made larger.

Ms. Price: stated the applicant would like to keep it as designed if the Board agrees.

Mr. Snieckus: stated he appreciated the applicant taking a look at that detail; finds the points that have been discussed regarding the height of the wall as you get closer is actually a compelling reason to leave it as designed; believes the band drop at the top underneath the building helps to reduce the distance and it now has a grounded look.

Mr. Tarantino: asked for a more detailed explanation regarding the variance needed for signage; would like to know the size and lighting details.

Ms. Price: stated Mr. Preiss will testify with regards to the signs and the variance relief sought.

Mr. Montoro: stated the signs themselves are sitting on a pediment; before we did not have pediments sticking up there was instead a continues band; the signs could have been made 2 ft. high and longer and still stay under the square footage; we are under the square footage that is allowed, but because there are other elements, the signs are taller; there are many different types of sign styles at this time than when the ordinance was written; the back of the letters would have a light in it which casts a halo affect which outlines the letter and enables you to see it; classy look; believes this is a better look than having the letters illuminated and you see the light coming through the letters; believes it is easier to read than having just a light on the letters which has a reflection and shadows.

Ms. Price: stated she pulled a 2011 letter regarding the St. Eve's sign on the adjoining property which was approved at 41 in. x 43 in. size; obviously that is more than 2 ft. in height; wanted to point this out because it is consistent with

the adjoining property; in terms of the halo lighting, that is less intensive lighting.

Chairman Barto: asked if Mr. Snieckus was in agreement with this testimony.

Mr. Snieckus: stated he is comfortable with this; he said the other aspect of the variance is the two free standing signs; the maximum height on the lesser dimension is 2 ft. and what is proposed is 4 ft. 9 in.

Mr. Montoro: stated one is 12 ft. 6 in. and the other one is 4 ft. 4 in. measured to the tip of the curb.

Mr. Snieckus: asked what the intent of the alternate height was.

Mr. Montoro: stated we could have made the sign go straight across; trying to make it architecturally tie in with the building but with a molding; it gives the sign more of a flavor, both sides; it is part of the same look that we are portraying with the building; trying to create the ground signs to fit in with the building architecture.

Mr. Snieckus: asked if there was also a need to accommodate the text that you are incorporating as well.

Mr. Montoro: stated the text needs to be up off the ground because there will be plants in front of it; thinks by putting the name in the arch gives it better readability and makes it more attractive.

Please note: there were no questions from the public at this time.

Mr. Rodger: stated, in regards to parking, the number of spaces is short per the ordinance and there is only one parking space per apartment; doesn't think that is a real number.

Ms. Price: stated her client doesn't want to have 53 people calling them with problems; the RSIS specifically allow for a deviation and modification and a waiver of parking standards when there is a mixed use, especially approximate to transit; moreover, they have had extensive conversations in the interim with the Borough's representatives, affordable housing team and they specifically asked the master who has been appointed in the Borough's affordable housing matter, about the parking; Ms. McKenzie, the master, confirmed, as a professional planner and in her role as the master that she would have no problem with designating 53 spaces, recognizing that we need that for DEP but that all of the spaces were going to be available and that there is shared parking and that, in essence, the small amount of retail is going to operate at opposite peak times than the residential so that the demand is not coincident with each other; when that is blended together that is the entire purpose that is discussed in the RSIS about mitigating and lessening the necessary macadam that is needed and lessening impervious coverage and making

mixed-use projects, such as this one, work; particularly approximate to transit as this project is; it is important to recognize that while 53 spaces are lease designated, that does not mean that there are only 53 spaces available; 123 spaces will be available; the retail will not be open 24 hours; the spaces are going to be able to be utilized by the residents; the 53 will be designated for DEP which we need to do.

Ms. Metzger: asked if it will be strictly retail and no restaurants; if there are restaurants, that parking would spill over into the evening hours.

Ms. Price: stated she did not know; there are restaurants along that corridor at this time; tried to be very cognizant of the demands that is why Ms. Dolan looked into this issue.

Chairman Barto: stated, he understood from the transcript that he read, under the RSIS the parking deviation is de minimus.

Mr. Snieckus: stated that was correct; in addition, he concurs that this issue was discussed at the meeting regarding the parking issue; the shared approach was encouraged; offered to the Board that the applicant is looking at one parking space per bedroom, therefore that is a norm ratio that is looked at from a planning standpoint; if the math was done in regards to the 123 parking spaces and 53 spaces being designated, if you were to consider 1.5 parking spaces per unit, that would realize 79 parking spaces; if you took the 79 from 123 that leaves 44 spaces available for the commercial; there is still a good ratio of parking available.

Mr. Rodger: stated he remains troubled by this; parking is difficult at this time; can't see how it will make it any better.

Ms. Price: stated the waiver from the RSIS is to be utilized in cases such as this.

Mr. Tarantino: confirmed the special master approved the parking.

Ms. Price: stated yes; Ms. McKenzie affirmatively said at their meeting that the designated 53 spaces were acceptable; made that representation; Mr. Hals and Mr. Snieckus were in attendance as well.

Mr. Snieckus: stated he was at the meeting; stated it was not necessarily that the master approved it, but she didn't see any problem with that approach; that is not her role.

Ms. Price: stated that was correct; she wouldn't approve it.

Mr. Tarantino: confirmed that she did not express an objection.

Mr. Snieckus: stated that was correct.

Mr. Tarantino: asked if Ms. Price reviewed Mr. Hals' January 7, 2016 letter.

Ms. Price: stated she read it when she arrived at the meeting this evening.

Mr. Tarantino: asked if she wanted to address his comments and go through them, starting with point #5.

Ms. Price: stated some of the items carry over; #5, #6, and #7 are not problems.

Mr. Hals: stated #8 is a comment from the last night; it didn't get added on with the plan revisions.

Mr. Dipple: stated that can be addressed; we have a space that abuts another space; initial thinking was we have a very wide sidewalk; we can push the spaces down; perhaps provide a small buffer or bollard; thinks there is a solution that can be worked out with Mr. Hals if that is acceptable to the Board.

Ms. Price: stated #9 is fine, #10 was reconfirmed earlier, #11 is confirmation of improvements, not a problem; #12, Mr. Dipple had testified to earlier; #13 part of the confirmation, no objection; #14 deed of consolidation was noted in their application, #15 is the outside agency.

Mr. Hals: concurred.

Mr. Tarantino: asked Mr. Hals if there was anything in his letter or in his thoughts that the applicant hasn't complied with.

Mr. Hals: stated the applicant has gone above and beyond in seeing the issue with the driveway entrance.

Ms. Price: stated Mr. Preiss is available to testify regarding the d and c variances pursuant to the statute.

Mr. Richard Preiss, applicant's planner, sworn in by Mr. Rutherford; Mr. Preiss gave his educational and professional background; Mr. Preiss was accepted as an expert witness in the field of planning.

Ms. Price: stated that Mr. Preiss had been retained to evaluate the use variance and certain bulk variance relief together with the site plan application; in that regard he also had the opportunity to attend all the prior hearings on the application and all the meetings with the professionals; he also attended the last mediation session at Borough Hall; his office has also been involved with the affordable housing component of the application as well; asked Mr. Preiss to briefly go through the steps he had taken as a professional planner in his review of this matter in preparation of giving testimony pursuant to the

Borough's ordinances and the burden of proof that the applicant has pursuant to the MLUL.

Mr. Preiss: stated in preparation for his testimony he has reviewed the site plans; he was involved from the conception of the project through all of the changes that have occurred to date; also including the architectural plans, the application; reviewed extensively the Master Plan of HHK which was adopted in November 2013, as well as sections of the zoning ordinance that pertains to this application; is also very familiar with the site and the neighborhood; reviewed all of the review letters that have been reviewed by the Borough's professionals; read the report of the Borough's affordable housing consultant which essentially supports the project because of the production of 8 units of affordable housing; has attended all of the hearings before the Board and all of the meetings with the professionals; believes there are several characteristics which the Board take into consideration with regard to the variances and the site plan; five very significant characteristics; it is a downtown location; critical crossover with respect to the continued functioning, strengthening and revitalization of the downtown; believes the downtown is one of the greatest assets of the town; close proximity of this site to the train station; the Board has probably heard of the concept of transit oriented development; described the concept of this type of development; there is a 2 minute walk up the hill to the train from the site; the train station is a very important consideration; one of the items that stands out in the Master Plan is to protect the single family character of the neighborhood; there are three inter-related factors with this development; what the existing uses are, the flooding constraints and the prospect for redevelopment; the existing uses are really low intensity; they do not contribute much in terms of generating pedestrian traffic or serving the retail needs of the local population, adding to the visual attractiveness of the downtown and represents underutilization and a missed opportunity; at the same time, the improvement is constrained by two major factors; the site is in the flood plain which requires a very careful and expensive construction of storm water management and also the fact the site is really small, compact and there is really not a huge amount of space for off street parking that is required under the Borough's ordinance; approaching the site and looking at its value given all of the proximity to the train station and being within the downtown and trying to make something of the site, it is only by virtue of a fairly dense, high value redevelopment scheme that incorporates structured parking that a legitimately, and from an economic point of view, creates a revitalization that is going to be something that will contribute to the goals of the Master Plan; all of these factors set the stage for the proposed project and explains its underlying nature, its density and its design and the original project which had the retail with the offices and residential was designed to take advantage of these locational opportunities, and even though affordable housing was a consideration from the beginning, as we moved through the development process that became a more central focus and is the fifth factor that needs to be taken into consideration; the affordable housing element and the lack of need for office space led the applicant to take over the project and make a determination that they would retain and utilize the existing space and keep it

as retail along the street, and utilize the next two floors for apartments; taking all those factors into consideration, he believes there are five special reasons which support the grant of the d1 use variance; the first is the site is particularly suitable for a mixed use development from the following points of view; from a land use point of view it is not close to any single family residential neighborhoods; it continues the retail street wall along N. Maple Avenue which is consistent with the remainder of the block and the other side of Maple Avenue and there is no real demand for second floor office space in the market today; in terms of traffic and parking, we have had very extensive testimony; it is not really a significant generator of new trips in the downtown, insofar as the retail is concerned; the levels of service are acceptable; there are convenient and safe ways of getting in and out of the site, in particular with the latest change which makes the one way ingress into the site from N. Maple; an egress is very convenient for people who are visiting or for living; this site is able to meet all of its own parking needs on site; through the structured parking and the availability of lot 11, all of the parking that is required is met on site; from an environmental point of view, this project is able to overcome very significant environmental constraints and the extraordinary costs associated with developing the site which few other types of uses would be able to do, both of which have a positive impact in terms of the capability to absorb the impacts of stormwater runoff, not only in terms of quantity but also in terms of quality; in fact it is an improvement over the existing condition; the site is also particularly suitable also because of the visual and aesthetic attributes; essentially you have a tired and very derelict service retail use with a beautiful building which will significantly increase the aesthetics of this portion of the downtown; in terms of fiscal, we have a retail component and a multi-family residential which produces very few school children; essentially generates revenues which will far exceed the cost the municipality will have to bear with in regards to municipal expenses in the school district; based on all of these factors, he believes the site is particularly suited to the proposed use; second factor is the transit oriented development; this is something which the State plan encourages particularly in the downtown; third factor is that this development helps to revitalize downtown Ho-Ho-Kus; not just something that is desirable from the point of view of the applicant, but which is very strongly encouraged in the 2013 Master Plan; the variance would certainly advance that particular goal; Mr. Snieckus in his report mentioned a number of those goals and objectives; essentially there is new retail, more jobs, more residents, more spending power in the downtown; there will be a presence at night on the weekend of people who will spend dollars at other retail establishments and restaurants in the area and the findings are when you have a residential presence in the downtown, that encourages businesses to stay open longer and to conduct more business; have traditional architecture and better aesthetics than the current uses and the amount of community oriented retail space is being expanded; will not just serve the people who live there, but people who live in Ho-Ho-Kus as well; the fourth factor is, by virtue of the granting of this variance, this project will assist the Borough in meeting its affordable housing obligation as mandated by the Fair Housing Act; Marybeth Lonergan has supported the variance due to this factor; the fifth factor is that this project

helps to respond to the responding demographics of the population; greater diversity of housing in the community will help to meet the housing needs of older, empty nesters who want to downsize and remain in the community and Gen Y generation which is younger singles or couples who are starting families with younger children who don't necessarily want to buy but want to rent or may not be able to afford the costs associated with owning a home; they also want to be close to transit so they can connect with employment centers and the entertainment offerings in NYC and in Hudson County; with respect to the density, there really is a necessity to overcome the environmental constraints and the cost of redeveloping the site, if the site can comply with the NJDEP flood plain requirements, and since no residential uses are permitted in this zone, there is no maximum permitted density; we don't need a density variance, but the Board may ask itself if the size and scale of this project something that is reasonable; in fact, if you look at the zoning parameters, we do not exceed the maximum permitted height, do not exceed the maximum permitted coverage and only slightly violate the front and side yard setback, so the mass of this particular building is something that is contemplated in the Master Plan and by the Borough's zoning; because there is no negative impact, because all of the parking can be provided and there will be no impact from a land use point of view, the scale of the density of the project is appropriate for this particular location; with respect to the negative criteria, the zoning ordinance and the Master Plan are essentially built around the notion of preserving single family residential neighborhoods, and to the extent that the Fair Housing Act mandates that multi-family housing must be built in the community to provide for an affordable housing obligation, from his point of view, what a better place is there in Ho-Ho-Kus to accommodate this use other than in the downtown area, which is far from any single family residential uses; with regards to the impact on the Master Plan, it was mentioned that the central tenet is the preservation of single family residential neighborhoods and the second aspect Mr. Snieckus in his review letter of January 6, 2016, sets forth the number of purposes of the Master Plan relating to the downtown; the granting of the variance really advances all of those goals; it is an improvement to the downtown zone streetscape; makes it a lot more attractive; providing retail uses of a scale which compliments existing businesses; this project is rehabilitating and adaptably reusing existing buildings which is encouraged by the Master Plan; adding landscaped features, façade improvements, common access and parking areas which is also encouraged in the Master Plan and then overall it is comprehensively designed integrated project in terms of its architecture, its design features, its building materials, signage and lighting; complete package; believes it is compatible with the adjacent development as well as the downtown; all of these particular goals of the Master Plan are really embodied in this project; in terms of whether there are any substantial negative impacts, from his point of view, when you look at the land uses in the vicinity, the traffic and parking that is provided, the visual characteristics, fiscal impact and from an environmental point of view, he doesn't see any negative impact at all, let alone substantial negative impact; in regards to the Board reconciling the fact that the zoning ordinance does not permit a residential use; since the Master Plan was done in 2013, the most significant change is the Supreme

Court's decision in regards to affordable housing, the necessity for the Borough to address that obligation which is a change of circumstance which he believes allows the Board to say, we can depart from the zoning and allow the residential use in the downtown without significantly being detrimental to the Master Plan.

Ms. Price: confirmed that is what is commonly known as the d variance.

Mr. Preiss: stated that was correct.

Ms. Price: stated testimony had been heard from all three witnesses prior to Mr. Preiss' testimony concerning the c variances; Mr. Preiss reviewed the previous testimony and the plan design in connection with the variance relief and the statutory obligations.

Mr. Preiss: stated he had.

Ms. Price: asked Mr. Preiss to sum up the bulk regulations, the setbacks and the signage and also highlight parking.

Mr. Preiss: stated, for the record, he will list the variances and then go through the justifications and the negative criteria; in terms of the front yard setback, 10 ft. is required, proposed is 0 ft. on Barnett, .91 ft. on First and 5.33 ft. on Maple.

Mr. Rutherford: stated these numbers are listed in Mr. Snieckus' report on page 3.

Mr. Preiss: stated there are two areas where the side yard setback is not met; there is a proposed 1.66 ft. off the side yard where the property is adjacent to Lot 4 of Block 1016 and that is the side yard between the parking structure with the apartments above and the adjacent parking lot on Lot 4 and also there is a 2.77 ft. side yard setback to the dentist's office which is adjacent to the Ho-Ho-Kus brook; there is a paved area setback requirement; 6 ft. is required; there is 0 ft. on Maple, 0 ft. on Barnett and there is .91 ft. on First Avenue; there is also a setback in the environmental regulations that requires that the building be setback 50 ft. from the bed of a stream and the closest dimension is 24 ft.; parking has already been mentioned; 137 total spaces, including 101 spaces for the residential use; proposed is 123; 53 which are designated for residential; 70 shared for residential and retail uses; where loading spaces are required, a 10 ft. x 45 ft. space is required; not providing any designated loading spaces of that size for this project; with regards to signage, there are three variances; no sign is allowed to exceed 2 ft. in any dimension; as indicated earlier, there are certain signs, including the free standing signs, which exceed this dimension; the allowed signage is based on the façade along North Maple; 60 sq. ft. is permitted; there are a number of signs, none of which exceed 60 sq. ft., but in total it is 247 sq. ft.; the other requirement is that

there be no back lit signs and two of the signs, the freestanding signs, have LED backlit signs; those are the c variances which are required.

Mr. Hals: stated a lot coverage variance is also required; it is listed on the plans as 50%, it is closer to 60%; it has to include the elevated parking structure; previous plan was 70%, but now it is closer to 60%; the proposed parking deck is an accessory structure attached to the principal structure so it becomes part of the building coverage that would be added on.

Ms. Price: stated without that elevated they were actually getting rid of a non-conforming; right now the site is non-conforming for lot coverage and they are reducing the non-conformity but because of the requirements that elevate that portion, because of the DEP requirements, that is creating the need for this variance.

Mr. Preiss: stated that is really a hardship variance because of the necessity to meet the flooding requirements; in regards to all the other variances, the Board should note that many of those variances can be subsumed within the grant of the use variance because this particular zone in which the subject property is located did not contemplate a mixed-use; the bulk requirements are not designed for a mixed-use type of project and not necessarily appropriate to apply those standards in this case; when you look at the setback variances they all relate to the unusual shape of the site, the fact that you have remote parking on Lot 11; it has unusual frontage, unusual access in terms of the way that the site can be accessed; its relationship to the corner of the property; it really has three frontages: First Street, Barnett and N. Maple; and the fact that it is adjacent to the Ho-Ho-Kus brook and there is a flood plain in it; these are all hardship conditions which makes it very difficult to comply with all of the setback requirements; specifically in terms of the front yard setback, the existing building which is going to be adaptively reused as indicated and encouraged by the Borough's Master Plan, actually has a 0 ft. setback; when they spoke to the County about the access drive, they were concerned with the visibility from the driveway to N. Maple Avenue; the sight lines at the driveway are improved; difficult conditions include the narrowness, unusual shape of the property and its unusual relationship to Barnett and First, make compliance with the 10 ft. setback very difficult and the benefit is that you are able to provide two rows of structured parking which can support this project; in terms of the proposed side yard setback on the north side of the project, this is an existing condition which for reasons of the NJDEP flood plain compliance purposes can't be changed; side yard setback of 0 ft. is permitted; the reason why the building is set back 1.66 ft. is to make sure there is a clear distinction and separation between the retaining wall for the structured parking and the parking lot on the adjacent property; the paved area setbacks on Barnett, First and Maple, relate to the fact that there are existing driveways and parking areas; this is an existing condition; reutilizing the property in the same manner; it is consistent with what exists; extensive testimony only heard on parking; the 52 designated spaces means each apartment dweller will have once space which is exclusively theirs; the other spaces will be available to

them, but not on a designated basis; in the shared parking analysis that was done, for this project, taking into consideration the retail uses and the residential uses and the times of day when they are used, at a maximum, 112 spaces will be needed; there are 11 spaces as a cushion; about 10% more than is actually needed; does not believe at any time when this project is used that there will be a shortage of spaces on site; compliance with a standard of 137 spaces is all well and good, but based on the testimony of Ms. Dolan, providing those excess spaces serve no particular purpose; if that number had to be provided, it would reduce the scale of the project; when everything is taken into consideration, there is enough parking provided for residents, retail tenants and retail visitors without using the on street spaces; clearly in this situation, there are specific parking spaces, but the benefits of providing this number of spaces actually outweighs the detriments; the anticipation is that there will be a number of convenience related small retail stores; none of which will need to have deliveries by large vehicles; not having a loading space will not be detrimental to the project; the signage variances relate to the composition and nature of the proposed mixed use; have structured parking, retail use and apartments; also have separate entrances and an exit; not something that is contemplated by the signage requirements that the Borough has which is generally business signage; the fact that people will want to be encouraged to drive into the site to park on the property is somewhat unusual; this is really the main reason why the monument sign is necessary; the names of the stores will be placed on the monument sign; people who are driving will know where to go in and to park; want to be able to identify the stores which are on site by the size of the monument sign; moderately scaled and appropriate to the scale of the project itself; critical to the viability of the project that the signs be provided; from the point of view of safety and convenience, the signage helps; the benefits of granting the variance relating to the signs outweigh the detriments; with regards to the backlit signs, the ordinance has not caught up to the fact that there has been a change in the introduction of backlit LED signs; very tasteful and useful with no glare; in this particular situation they would be very appropriate; not the type of signage the Borough's ordinance wants to prohibit; the variance to grant that signage has an advantage that it is attractive as well as functional; does not believe the granting of any of the c variances would have a potential detriment from the point of view of land use, or the functioning of the traffic or the parking or any other aspect of the project; doesn't think it violates any of the major goals and objectives of the Master Plan.

Mr. Hals: asked about the driveway slope.

Mr. Preiss: stated that is a technical issue; believes Mr. Dipple testified to that.

Mr. Hals: asked about the maximum parking grade.

Ms. Price: stated that is a design issue.

Mr. Snieckus: stated he had no issue with the testimony that has been provided to the Board; only had in his notes if the environmental issues were being stressed; one point of clarification, in the testimony prior to talking about the parking variance, it was indicated that the parking requirements were being met; technically there is a variance.

Mr. Preiss: stated that was correct; by meeting the parking requirements it meant the requirements for the project based on the studies that were done; a parking variance is needed.

Mr. Snieckus: stated what was being pursued was a de minimus exception.

Mr. Preiss: stated that is correct; the RSIS dictate the residential standard and the applicant is seeking a de minimus exception; the RSIS allow for de minimus exceptions and they in particular recognize where you have access to transit, as there is in this particular situation, that people don't need two cars; the necessity to provide the same ratio in another residential project is not quite the same; almost 50 spaces are available for the retail use; in his opinion parking is not an issue.

Mr. Snieckus: asked, from the standpoint of what was heard earlier as far as the distribution of spaces, if Mr. Preiss agreed that was in conformance.

Mr. Preiss: stated looked at it very carefully; put on the record that the applicant will comply with the Uniform Housing Affordability Controls (UHAC) requirements, in terms of income and bedroom distribution.

Mr. Snieckus: asked if these would be administered in accordance with the regulations.

Mr. Preiss: stated yes; in fact the applicant has signed on with an affordable housing consultant to make sure the applicant is in compliance.

Mr. Snieckus: stated his only other suggestion to the Board is to have the actual units designated on the plan so that it is clear for the record.

Mr. Preiss: stated that can be done.

Mr. Olivo: stated he echoed the words of Mr. Preiss and Mr. Snieckus with regards to the parking; there is more than adequate parking on the site.

No comments from the Board or the public.

Ms. Price: stated she wanted to thank the Board for their attention; through the work of the Board's consultants, the applicant at the end of the day have come up with a very good project that she believes will enhance the downtown and at the same time, working with the mediation team, will assist the Borough with the Supreme Court mandate that came down that took a lot of Borough's

by surprise; by producing the 8 units downtown, because of the fact that they are rental, they likely will be entitled to a rental bonus, so the 8 units will probably equate to 16 units or they also may be eligible for a transit oriented bonus; will leave that to the municipal experts because it is up to them to determine which bonus is better for the Borough; the fact that they have committed to doing the units makes them available to the Borough; Marybeth Lonergan's memo was very helpful acknowledging that; it sounds like the project needs a lot of c variances but the Supreme Court, on a fairly recent decision, indicated that in use variance cases, often because of the particular suitability of use that is being sought, the c variances are subsumed in the d variance and because of the use and the layout of the use, the c's become necessary, so that rather than looking individually at all the variances, they are looked at as a whole as an application; believes that is what is in front of the Board; this is a rebirth of a tired site; the constraints with the DEP are significant; this is a complicated project; it has taken a lot to design this project in terms of how it best works; for the record, minor revisions that need to be made for any oversights will be taken care of; a final set of plans will be needed and at that point would be the time to go through them to make sure all has been accomplished.

Chairman Barto: stated he originally thought each one of the variances should be voted on separately, but what Ms. Price just said had a resonance to it; believes the Board can vote on the application as a whole.

Mr. Tarantino/Ms. Metzger: agreed.

Mr. Rutherford: stated it is sometimes difficult to segregate out the variances and sometimes you end up with a result that doesn't necessarily reflect the consensus of the Board.

Chairman Barto: stated, if we work with Mr. Snieckus' list of what the variances have to be, he would entertain a motion to approve this application.

Mr. Tarantino: stated he concurs; this project is probably one of the nicest projects he has seen; this will have a major, positive impact on the town; appreciates the experts the applicant has put forth; very nice what was done with the traffic pattern; believes it is inherently positive to the Master Plan and to the town; the positive criteria completely outweighs any negative criteria; Mr. Roger brings up a very good point with regards to parking and traffic issues, however, he believes they are de minimus; does agree with Ms. Price that the bulk variances should be subsumed into this application and also clearly with Mr. Preiss' testimony as to the hardships on the topography and the unique shape of the property, those c variances should be allowed; for those forgoing reasons he joins in the motion.

Ms. Metzger: stated it makes her very happy as a resident that Ho-Ho-Kus is stepping up to the plate with affordable housing.

Mr. Deegan: stated he is a little more skeptical on the presentation of the traffic issue; the effect of the congestion on the downtown; with that being said, he does agree with the other members; the benefits outweigh those concerns.

Mr. Rutherford: stated there will be some conditions; will try to put as many as he can on the record; general note: compliance with any outstanding issues with the expert reports prepared by Mr. Hals and Mr. Snieckus; compliance with the December 14, 2015 memo which appears to be a very comprehensive list of the issues that were discussed; condition upon any and all other agencies requiring approval, meaning County, DEP, Soil Conservation, any and all of those; there will be a developer's agreement, ADA compliant design, relocation of the First Street sign as indicated by Mr. Hals; Board would contemplate that there would be additional signage in terms of emergency signage; compliance with all applicable regulations of the UHAC requirements; affordable housing element; 8 affordable units designated on the plan with distribution as testified to; employees parking on Lot 11; there may be a few more when the resolution is drafted; for the record, the Board Secretary has been very diligent and the Board Members also have been quite diligent; any member who missed a meeting has read a transcript and has so certified in writing; Members who are eligible would be Members Barto, Tarantino, Cox, Metzger, Forst, Deegan, Pappas and Rodger.

Motion to approve: Chairman Barto, Metzger

Ayes: Tarantino, Cox, Forst, Metzger, Deegan, Pappas, Chairman Barto

Nays: Rodger

Approval of Minutes: Carried until February 4, 2016.

December 3, 2015

October 1, 2015

June 7, 2012

September 6, 2012

October 4, 2012

December 6, 2012

Motion to Adjourn: Tarantino, Cox

All in Favor

Meeting adjourned at 10:20PM

Respectfully submitted by:

JoAnn Carroll

Zoning Board Secretary

January 8, 2016

Revised: May 18, 2016