

Regular meeting of the Haworth
Planning Board on April 18, 2018, at the
Municipal Center.

PRESENT Dennis Posen, Chairman
John Smart, Mayor
Andrew Rosenberg, Councilman
Andrew Anderson, Vice Chairman
Leona Kosmac, Secretary/Treasurer
Amy Albalah
Edmond Ezra, Public Official
Nancy Minikes

John D'Anton, Board Attorney
Caroline Reiter, Planner
Joseph Vince, Board Engineer

ABSENT: Antonio Cammalleri

The meeting was called to order and upon roll call, the above members were present. Mr. Cammalleri gave notice that he would not be able to attend. Mr. Ezra arrived a short time later.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

In essence, the following transpired.

ACCEPTANCE OF THE MINUTES

Mr. Ezra arrived.

The minutes of the February 2018 meeting were reviewed.

Mr. Anderson noted that page 14, third paragraph should be amended to read, "Seconded by Mrs. Minikes and unanimously carried."

Mrs. Minikes moved to accept the minutes as presented, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Ms. Kosmac and unanimously carried.

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Mr. Posen said that in support of the language, this has been the most significant issue in front of the Zoning Board in the past decade. It needed to clarify the issue of front yard fences as well as integrate the definition of front yards so that the language would be consistent. He commented that this was a significant improvement.

Mr. Posen entertained a motion.

Mr. Anderson moved that the Board support the adoption of the Fence Ordinance as drafted.

Seconded by Ms. Kosmac and upon roll call, the vote went as follows: Yes - Mr. Anderson, Ms. Kosmac, Mr. Ezra, Mrs. Minikes, Mrs. Albalah, Councilman Rosenberg, Mayor Smart, and Mr. Posen; No - none. Motion carried.

CORRESPONDENCE

- Official announcement and certificate from the New Jersey Planning Office certifying that the Haworth Planning Board was a member for another Year.
- New Jersey Planner

Mr. Posen distributed copies to the Board.

Mayor Smart asked the Board to take note of page of page 12, lower left section, relating to training. He pointed out that it was on-line and they had until July to complete it.

- Packet from Mrs. Reiter relating to the re-examination of the Master Plan.

Mr. Posen told the Board that in the packet they received, there was a report from Mrs. Reiter. He said she found a typographical error so she revised the copies. Mr. Posen said she explained that it had to do with applications and there were no significant changes.

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- B-3 - Packet of information dealing with the request made by the applicant to the Borough, excerpts of Mayor and Council minutes some correspondence from Robert Maloof, Esq. on behalf of the applicant requesting a reversion of the 5 ft. strip because it is held as a Deed by the Borough and it is clear from the record that the Borough is not agreeing.
- B-4 - Copy of the Deed dated 8/27/1958

Mr. D'Anton stated that the applicant was Mrs. Bray and not the Borough of Haworth. She wants to cross Borough-owned property without the Borough's consent for the purpose of ingress and egress into the lot which abuts Summit Place. He said that the engineer's letter dated 12/5/17, indicated that the application was incomplete because the Borough had not consented or because the Borough was not part of this application. He pointed out that this was not a case of a seller and a contract purchaser.

Mr. D'Anton said he told Mr. Dunn that he did not believe that the Board had the power to allow a private party to cross land owned by the Borough. He said that there was language in the Deed to which Mr. Dunn had referred and Mr. Dunn's interpretation was accurate. Mr. D'Anton said that there was language about ingress and egress and he was not sure of what it meant since this was supposed to be used as a walkway and one could argue that using it for a driveway was inconsistent or inconsistent depending upon their point of view. He said that in any event, the property owner, which is the Borough, has chosen not to concede to this request for their own reasons. Mr. D'Anton stated that it was his opinion that the Board did not have the power to grant that access. He said that the applicant could have three choices:

- The Board could vote on his advice right now;
- The applicant could place the entire application on the record and vote on that; or,
- The applicant could ask to adjourn the application for a period of time until they could get someone in Superior Court to make this decision because he felt that this was the only way it could be resolved.

Mr. Dunn stated that before he made that decision, he would like to take a brief adjournment. He said it was the applicant's position that the Borough had no right to prohibit access to ingress or egress on that site. He said that the Deed was explicit and did not require interpretation by a court and to prohibit the use would constitute a denial of the right to use that property. He elaborated. Mr. Dunn urged the Board to look at the Deed but he said he knew that they would have to follow Mr. D'Anton's advice since he was the Board's attorney.

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Mr. Dunn advised the Board that the applicant was not going ahead with this yet and they were not going to withdraw. He said that at this point, they wished to ask the Board for a 90-day extension, subject to any proceedings which would be ongoing. Also, if the Court was considering the matter, he asked the Board to consider not having to send further notices.

Mr. D'Anton stated that it was not uncommon in certain types of applications that there are things outside the realm of the application which have to be addressed, so a developer asks for additional time and the applicants do not have to notify everyone within 200 ft. Nor, is it unusual that whatever the time is, and if they are at the 89th day, they could ask for an additional 90 days for judicial proceedings.

Mr. D'Anton recommended to the Board that they grant the applicant's request to carry this application for 90 days with no additional notices.

Mr. D'Anton told the applicant that they would give them a tentative date tonight and if they needed more time, they should advise them as soon as practical.

Mr. D'Anton noted that 90 days would take them to July 18, 2018. He suggested that the Board make a motion to carry this application until July 18, 2018 and give notice to the surrounding neighbors but they would not have to submit an additional application nor pay additional fees. Further; if the applicants need more time, they will let them know.

Mr. Dunn was asked if he consented to the extension of time for the subdivision application as well and he agreed.

Mr. Ezra so moved.

Mr. Dunn stated that the applicant felt the issue of interpretation could be made by Counsel and they also felt that the determination should be made by the Board before this vote is taken.

It was noted that as a point of order, that there was a motion on the table.

Seconded by Mrs. Albalah and upon roll call, the vote went as follows: Yes - Mr. Ezra, Mrs. Albalah, Mr. Anderson, Ms. Kosmac, Mrs. Minikes, Councilman Rosenberg, Mayor Smart, and Mr. Posen; No - none. Motion carried.

Mr. D'Anton advised the members of the public that they check the Municipal Center bulletin board in the event that this matter was carried from July 18th.

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A neighbor asked how they could follow up on the issue of the easement since their children use it.

Mr. D'Anton suggested that they go to the Mayor and Council and express their concerns to them and he was sure that they would keep the residents informed..

Mr. Posen then announced that the Board was going into Closed Session. He entertained a motion.

Mr. Anderson so moved.

Seconded by Mrs. Minikes and unanimously carried.

CLOSED SESSION

Upon completion, Mr. Posen entertained a motion to go out of Closed Session.

Councilman Rosenberg so moved.

Seconded by Mrs. Albalah and unanimously carried.

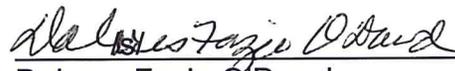
NEW BUSINESS

Mrs. Reiter reminded everyone that they will be discussing the Master Plan at the next meeting on May 16th. She said that some Board members sent her comments and some did not and it would be nice to hear from everyone.

There being no further business, Mr. Anderson moved to adjourn.

Seconded by Mr. Ezra and unanimously carried.

Respectfully submitted,



Dolores Fazio Dowd