

**Borough of Ho-Ho-Kus
Bergen County, New Jersey
Planning Board Minutes
January 11, 2024
Combined Session**

(Immediately following the Reorganization Meeting of the Board)

Meeting Called to Order at 7:20PM by Chairman Hanlon

Open Public Meeting's Act Statement: Read into the record by the Board Secretary.

Roll Call: Messrs. Jones, Madden, Thomas, Hart, Ms. Cavallo, Mr. Forcellati, Councilman Policastro, Chairman Hanlon, Mayor Randall (absent)

Also in Attendance: Gary J. Cucchiara, Esq., Board Attorney; Mr. E. Snieckus, Borough/Board Planner; Mr. Mark Berninger, Zoning Official; Ms. JoAnn Carroll, Board Secretary

Chairman Hanlon: stated, for the record, this evening's meeting was a Combined Session of the Board for January, 2024; a meeting will not be held on January 18, 2024.

New Business:

Docket #16-2023: Mr. Brent Cestone, 611 N. Maple Avenue, Graze Restaurant, Block 1016, Lot 4, GB Zone/OL 1: sign applications (building and window)

Mr. Brent Cestone: appeared before the Board.

Councilman Policastro: stated the sign application submitted by Mr. Cestone fully conforms with the Borough's Sign Ordinance and he recommends approval of the application.

Motion to Approve Sign Application: Jones

Seconded by: Madden

Ayes: Jones, Madden, Thomas, Hart, Councilman Policastro, Chairman Hanlon, Cavallo

Nays: None

Board Discussion #1:

Zoning Amendment: Second Floor Side Yard Setbacks in Residential

Zones: Mr. E. Snieckus, Borough/Board Planner, to review the proposed amendment to subsection K of the Borough's Ordinance

Mr. Snieckus: provided a brief outline of what has already been reviewed regarding possible amendments to the second floor story setback ordinance; required in the R1, R2 and R3 zones; percentage requirement based upon the

lot width of the overall property; trying to instill in the regulations a requirement that tries to avoid people building out exactly to their building footprint; "box" like structure; impacts light, air and open space of adjacent properties; a discussion was held at the November 2023 meeting regarding the various options available; all stemmed from the Zoning Board's review of applications; not aesthetically pleasing in the way the regulations required; applicants seeking a hardship relative to that; would require additional structural needs within a building in order to have the second floor jogged in along the side of the building; looked at various options; FAR; front yard setback width requirements; from that stage, there was a question as to whether the ordinance needed to be changed or not; tonight's discussion will focus on if the ordinance needs to be changed or modified in other ways.

Mr. Mark Berninger: stated he worked in Glen Rock, NJ for many years as the Zoning Official; same issue arose with buildings being too wide and too tall; the FAR was used; subsequently found out it was flawed; took two years to formulate the EGFAR (Effective Gross Floor Area Ratio); showed a picture of a house built in Midland Park, NJ a few years ago; basically a box; impinges on the neighbors; Midland Park would not address this type of construction; Midland Park has a sliding scale for different sized properties; Glen Rock realized they have excessive properties in town; bases the FAR on the first 140 ft. of the property; all floors, decks, etc. are taken into account for the FAR; can have a bigger house on the bottom, but in some way it would have to be stepped in or go behind the 140 ft. line to make the house bigger; it is involved; currently is the Zoning Official in Woodcliff Lake; they have instituted a three part height requirement; lower the heights so a house can't be built straight up; another option; feels the second story setback is a positive; it steers people away from coming before the Board; most towns have a zoning requirement regarding the average grade; e.g. the average grade around the bottom of the house out to 6 ft.; measure up to the peak of the house for the height requirement; Ho-Ho-Kus measures from the front of the house, as you are looking at the house from the street, mean height requirement; which means from the top of the second floor wall to the roof line; then allowed to go to 35 ft.; the ridge can be another 6 ft. higher; if the ground slopes away in the rear, the back of the house could be 50 ft.; does not like the mean height requirement; the EGFAR works well in Glen Rock; not sure how well it would work in Ho-Ho-Kus.

Mr. Snieckus: discussed the FAR; overall floor area of the building; defined in the MLUL; can't deviate from the definition; other towns have implemented the effective gross floor area (EGFAR); they use this so they can deviate and adjust what they feel is important to control the regulation; can be defined separately; there is often a concern regarding the view from the street; trying to have standards which might be effective at the street and/or a neighboring property; the FAR can help a neighboring property but there is no control as to where the reduction in the floor area would be; could be in the back of the building; could come back to the Board with some recommendations; feels it is important that Mr. Berninger stated the second floor setback is somewhat of an effective tool; should be weighed by the Board; would like to review a second floor FAR; that can only be a certain percentage of the overall coverage; typically building sizes are regulated by the building coverage requirement; the building coverage

requirement along with the building height, dictates the overall mass of the structure; another tool we have to adjust the upper mass of the building; the 2nd floor FAR could be something to consider; indicated in August's memo, showed a series of illustrations as to what that might look like; realizing people have different styles and tastes; we are trying to instill a mass adjustment; can provide those illustrations as well; the last time he was before the Board, the Board was not quite sure if there was a problem with the current standard or if there is a problem, is there a better way to address it.

Chairman Hanlon: stated the town has used this standard for many years; asked, if the standard is changed and new homes are built, will non-conformities be created.

Mr. Snieckus: stated there is a certain standard at this time; if a second floor FAR is imposed, if there is a percentage number which runs afoul of a lot of properties, that is persuaded under the MLUL and the references in the Cox Treatise that discusses issues of pre-existing non-conforming conditions; try not to create a lot of non-conformities.

Chairman Hanlon: directed his question to Mr. Berninger; asked if the current ordinance could be tweaked.

Mr. Berninger: stated the ordinance can be fine-tuned; when Glen Rock adopted the EG FAR, they were worried about massive homes being built on small lots; "mcmansions"; the EG FAR helped stop it; stepping the homes in on the sides worked well; the writing of the formula took a long time.

Chairman Hanlon: stated, if the ordinance was changed, some of the current homes may become non-conformities.

Mr. Berninger: stated he was not opposed to the FAR for the second floor; thinks that is a good idea.

Mr. Snieckus: stated it can be tested; can look at a few examples from the zoning files to see how a revised ordinance relates to them.

Mr. Jones: stated the fact is the Zoning Board has approved the variance for the second story setback every time; common complaint is to avoid the wedding cake look.

Mr. Berninger: stated architects get creative and bury part of the house inside the second roof; there is living space inside the roof area; does not consider that a full second story.

Mr. Snieckus: stated he has seen ordinances that discount certain spaces if they are under a certain height; another option.

Councilman Policastro: stated, he believed, since the Zoning Board has never denied a variance for a second story setback it is an indicator it needs to be addressed; applicants avoid the burden of applying to the Zoning Board and will adjust their building plans; can't regulate style; can have an irregular

shaped home depending on how the roof line is designed; also a potential flaw; trust and confidence in the professionals that if they conduct a further review they can attempt to fine tune the ordinance; may be able to create a hybrid model using our ordinance along with those in Woodcliff Lake and Glen Rock; asked if this ordinance should be reviewed per zone.

Mr. Snieckus/Mr. Berninger: both replied yes.

Councilman Policastro: stated R3 can be a problematic zone because it has smaller lots; cannot spot zone; asked if it is possible to compare the town to other towns with similar size homes and or property values; any success stories in other towns.

Mr. Berninger: stated he has been the Zoning Official in Midland Park for 33 years; there is a section behind the high school with small homes; 50' x100' lots; variances were submitted for the homes to be built straight up; each variance was granted; the town changed the ordinance to just allow it; believes that was a big mistake.

Mr. Snieckus: stated, sometimes when an applicant applies for a deviation from the criteria, the Board has the authority to ask what could make the look of the proposed construction aesthetically better.

Mr. Madden: stated it also needs to be conforming with the neighborhood; there are glaring examples in town where homes look completely out of place.

Mr. Snieckus: stated it comes down to good architecture.

Mr. Cucchiara: (directed his question to the Board Secretary) asked if there were any conditions imposed with variances granted for the second story setback approvals.

Ms. Carroll: stated none she could recall; all the applications presented were aesthetically better plans.

Please note: it was determined that Mr. Snieckus and Mr. Berninger would revisit the topic of the second-floor story setback in March, 2024; Ms. Carroll would provide copies of second-floor story setback variance applications to Mr. Snieckus for his review.

Discussion/Update:

EV Charging Stations: Mr. E. Snieckus, Borough/Board Planner to provide update on the ordinance to be submitted to the Mayor & Council, which will be based upon the State's model ordinance

Mr. Snieckus: stated a State statute has passed that requires EV charging stations be permitted as an accessory use in any zone; the statute establishes certain requirements which can't be changed and others that can; the statute definitions call out private and public EVSE accessibility; private single family home or a business for their own private fleet; publicly accessible EVSE would

be located on private property where there is a site plan development or an existing development where there are spaces where the public would come and utilize the EVSE; there is an ability for the municipality to implement on public property certain community charging stations; want to have recommendations and standards for consideration by the Governing Body for the public properties, right-of-way; making a recommendation that a charging station not be permitted in a flood plain; was asked to put together a draft ordinance which is in front of the Board this evening; much of which came from the model ordinance; added in the terms and definitions defined in the model ordinance; expanded where it made sense; reviewed the proposed ordinance in detail.

Mr. Thomas: state, at the last meeting, safety was discussed; fire issues.

Chairman Hanlon: stated that has changed to some extent; GM and Ford are all switching to the Tesla system; standard system; adaptor to make connection.

Mr. Jones: asked if a fire extinguisher was required as a safety requirement.

Mr. Snieckus: stated no; some EV spaces are located underneath buildings; many insurers are looking at this issue; possible halogenic extinguishers.

Mr. Madden: asked if the EV stations had to be set back from the main structure.

Mr. Snieckus: stated that he is not aware of such a requirement; in Summit, NJ, there was an application for a car stacking system; the Fire Department had to review and address possible hazards; halogen extinguishers were installed in the building at the location of the EV stations; cannot prohibit them; State statute.

Chairman Hanlon: stated the safety of the device becomes an issue when the charger does not have a retractable feature; there is a timing device within the car which shuts off the charging at a particular percentage; reviewed charging system levels; super charger.

Councilman Policastro: asked if there would be a restriction so larger commercial vehicles would not utilize the charging stations.

Chairman Hanlon: stated an oversized truck could not fit in the parking space; the Police Department could enforce any illegally parked vehicles; recommended not to have charging stations on the main roads due to the limited parking time for each space; need designated locations for the stations because the dedicated power lines need to be installed; PSE&G has set up a power system in this area.

Mr. Snieckus: stated secondary roads with angled parking may be sensible locations for the stations.

Councilman Policastro: asked, if a developer is constructing a building and the charging stations are being installed on a roadway, would they then be the Borough's responsibility to maintain.

Mr. Snieckus: stated it would be subject to the approval of the Mayor & Council; conditions of approval.

Councilman Policastro: stated he wanted to ensure the lighting associated with the charging stations was compliant; avoid flashing lights, etc.

Chairman Hanlon: stated it should be added, but those types of lights are currently not permitted.

Mr. Snieckus: stated redundancy makes sense in this case.

Chairman Hanlon: stated there is a recommendation in the ordinance based upon the Electrical Subcode Official suggesting the Council consider installing a charging station, possibly at the train station, so the town can generate its own power during power outages.

Mr. Snieckus: stated that would be covered in the memo and in the HVAS.

Motion to authorize Mr. E. Snieckus, Borough/Board Planner to submit the proposed Electric Vehicle Supply/Service Equipment (EVSE) & Make Ready Parking Spaces ordinance to the Mayor & Council for review and adoption, as amended: Jones

Seconded by: Hart

Ayes: Jones, Madden, Thomas, Hart, Councilman Policastro, Chairman Hanlon Cavallo

Nays: None

Please note: Mr. Jones left the meeting at 8:23PM.

Please note: Mr. Berninger left the meeting at 8:24PM.

Mr. Forcellati moved to the dais at this time, 8:24PM.

Board Discussion #2:

Hazard Vulnerability Assessment Study/Master Plan Element: Mr. E. Snieckus, Borough/Board Planner, to provide information to the Board regarding the HVAS

Chairman Hanlon: stated this is the ultimate mandate from the State; climate control package is complicated; not be approving this evening; will review the information the Board has at this time and how we will move forward; will have a public session on this issue in the future; (date set for February 15, 2024); this is a new element required in the Master Plan.

Mr. Snieckus: provided an overview for the new Board Members; a HVAS needs to be included in the Master Plan; study includes a review of potential impacts of climate change; precipitation, flooding, excessive heat, wind storms, etc.; the analysis will have several parts; discussed some of the sections of the

document already regarding the flood plain areas; areas changed by the NJDEP that requires certain requirements relative to new developments within the flood plain or adjacent to the flood plain; the other sections talk about build out analysis; think of where there might be additional developments; would that additional development be impacted by some of these changes; critical facilities; infrastructure, roads, sewer, water, fire, emergency services, etc.; in extreme events, would there be the right access; right mobility within the community; each town has their own emergency management plan that is required by the State; requirements for certain administrative aspects of how to manage during an emergency; those documents are already in place; this document will be touching on more of a land use aspect of the community; reviewed map; the overall map represented the entire Borough; utilize a mapping system showing where the flood plains actually fall within the community; color codes critical facilities, i.e. municipal building, pharmacies, Police Department, water infrastructure, shelters, etc.; made note of the critical facilities which are impacted by the flood plains; can't avoid bridges or pump stations; required to map and identify if there is anyway of improving these situations; earmark certain recommendations; identified the bridge at Maple Avenue and Sheridan Avenue to be upgraded; encouraging the County, which controls that bridge, to perform the necessary work; these documents set aside certain goals and objectives, and also assist in the grant writing; important to map and identify streams, brooks and secondary tributaries; legacy document.

Mr. Madden: asked if there was another government agency which dictates the flood plain besides FEMA.

Mr. Snieckus: stated the NJDEP can dictate as well; they changed the regulations this past summer to include a requirement that an additional 2 ft. is maintained above the 1 ft. previously required to be above the flood plain; effective at 3 ft.; they felt the FEMA documentation was outdated; not based on current information or current storm trends that they are seeing; their argument was they needed to bolster the requirement; they did not go as far as changing FEMA's depiction of where the flood plains are; has somewhat passed onto municipalities to do a review if someone is doing a substantial remodel or adding a building; distributed to the Board "Section 5: Strategies and Design Standards to Reduce or Avoid Risks"; did not review in detail; this section covers what measures can be implemented that would help to avoid and provide conditions in some way; effort to try to put forth programs and policies so that we are trying to find ways to reduce the impact on the environment; one way is to avoid developing in the flood plain; try to encourage additional programs that would help to deal with certain impacts the municipality may experience; interested in putting the appropriate policies in place to deal with challenges we have with affordable housing as we get to the next round of affordable housing; all municipalities in the State will have to reevaluate their affordable housing plan in 2025; that document sets aside where you can plan for additional affordable housing; State is considering an adjustment to the Fair Share requirements; the adjustment will be based on how the need is calculated; under debate at this time; decided to table the current law being considered; sometimes some of these policies and objectives can help a municipality; do not want to encourage additional development in harm's way; need to schedule a public information session; ability to provide a presentation

to the public as to what this document will include and cover; requirement of statute.

Brief discussion held regarding setting the date of the public information session; date set for February 15, 2024 at 7:00PM. Notice of session to be published in The Record, on line and posted at Borough Hall.

Approval of November 9, 2023 Minutes: Councilman Policastro

Seconded by: Thomas

Ayes: Madden, Thomas, Hart, Councilman Policastro, Chairman Hanlon

Nays: None

Motion to Adjourn: Madden

Seconded by: Councilman Policastro

All in Favor

None Opposed

Meeting adjourned at 8:50PM

Respectfully submitted by:


JoAnn Carroll

Planning Board Secretary

APPROVED ON FEBRUARY 8, 2024