

ZONING BOARD OF ADJUSTMENT
VILLAGE OF RIDGEFIELD PARK
Bergen County, NJ

Minutes of Regular Meeting
March 18, 2008

The Chairman, Mr. Cathcart, called the meeting to order at 8:00 p.m. in the Municipal Building.

The Chairman announced that this meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., notice of which was published in the Record on the 21st day of December, 2007.

Roll Call: Present: Messrs. Cathcart, McCormack, Vorhees, DellaFave, MacNeill,
Wohlrab, Frontera and Ms. Perrotta
Absent: Mr. Spontak

A motion was made by Ms. Perrotta, and seconded by Mr. Vorhees, to accept the minutes of the February 19, 2008 meeting as prepared; all in favor.

Correspondence:

Historic Preservation Commission – February 2008 minutes
Notice from Teaneck Municipal Clerk, re: Ordinance # 4062
Letter from Boswell Engineering, re: Case # 1427
Letter from Board Attorney, re: Shaker vs. Ridgefield Park
Notice from NJ DCA, re: mandatory training for board members
Building Dept Certificate of Compliance & Occupancy & Permit Fee Logs – Feb. 2008

The Chairman announced that there are (2) cases for hearing this month:

Case # 1425 Block 23, Lot 17 – 22 Gordon St – JACK (variance)
Case # 1427 Block 88/Lot 15 – 172 Main St – RIALTO (use/site plan)

The Chairman read the Rules of Procedure.

Case # 1425 Block 23, Lot 17 – 22 Gordon St – JACK (variance)

An application requiring a variance for maximum improved lot coverage to construct a two-story addition to the one-family dwelling at the premises located at 22 Gordon Street, Block 23, Lot 17, in an R-2 Zone, on the Tax Map of Ridgefield Park.

The applicant, Ian Jack, was sworn in. The Board was furnished with proof of service, taxes paid, and proof of publication. Mr. Jack testified that he wished to increase the size of his home, as the current dwelling is small. He would like to add a family room on the first floor and a master bedroom on the second floor. He requires a variance for maximum improved lot coverage. The Board questioned the plans showing “habitable space” on the third floor (attic). Mr. Jack testified that he wished to use the space as an

office. Currently it is used for storage. The Board discussed the fact that the Code does not allow attic areas to be used for living space. The only way this would be approved if there were adequate stairs and windows to allow for appropriate emergency egress. The Board attorney advised the Board that, if the Board wished to approve the addition without the attic being used for living space, the resolution could indicate that. It was discussed that the applicant could have the case carried to the next meeting and submit revised plans, if they wished to receive Board approval for living space on the third floor.

The case was opened to the public.

Within 200' in favor of the application, the following appeared:

Andrew J. Scheideler – 23 Gordon Street. Mr. Scheideler testified that he approved of the application. His neighbors wish to improve their property, which will maintain property values for everyone in the area. It is a good thing. He testified that he received approval for living space on the third floor of his home at 23 Gordon Street. To receive approval, he had to provide code-compliant 36-inch stairs to the third floor, and had to increase the construction type.

Within 200' opposed to the application – no one appeared.

Outside 200' either in favor or opposed – no one appeared.

It was determined that the case would be carried to the next regular meeting to allow the applicants to submit revised plans, addressing the question of the attic. The applicants do not need to renotice or publish, as it was announced to all present that the case would be continued at the April meeting.

Case # 1427 - Block 88/Lot 15 – 172 Main St – RIALTO (use/site plan)

An application requiring a use variance and bulk variances to create a mini shopping center at the premises located at 172 Main Street, Block 88, Lot 15, in the C-1(H) Zone.

John Schepisi, Esq. represented the applicant. The Board was furnished with proof of service, taxes paid, and proof of publication. Mr. Schepisi indicated that his client is appealing the zoning determination that a use variance is required, and, if the Board agrees with the Zoning Officer that a use variance is needed, they then are seeking the needed D and C variances. Mr. Schepisi disagrees with the letter from Ed Ballard, Zoning Officer. Mr. Schepisi states that is it not a use variance. They are not enlarging or expanding a use. Right now, the Rialto Theatre has a Certificate of Occupancy for 520 people, as a theatre. The plan before the Board will reduce the size of the building. The applicant wishes to change the property to a retail use. Mr. Schepisi stated that the proposed plan would gentrify Main Street. Under the current ordinance a theater would require 200 parking spaces. Retail use would require 32 to 38 spaces. The property has 6 spaces.

Mr. Schepisi feels:

1. They don't need a use variance
2. They don't need any variance
3. They just need site plan approval

The Board attorney suggests the Board hear the whole application

Mr. Schepisi introduced the denial letter from Ed Ballard dated November 14, 2007. It is marked as Exhibit A1. Mr. Schepisi outlines a "use variance." He disagrees that this

application requires one. He states that the RP Zoning Ordinance and Development Regulations lists 40 principal permitted uses. . The applicant wants to put in only permitted uses. It is an existing structure, therefore you can't force the applicant to get a variance.

They are decreasing the size of the building by cutting into the Cedar Street side and getting rid of the emergency egress stairs for the theatre. There will be more sidewalk area. CO for building says occupancy is 550 people.

They are not increasing the occupancy.

Mr. Schepisi indicated that he has never seen this in an ordinance for any town before, that every lot can have only one principal use.

Any use not permitted as outlined in the ordinance must seek a use variance from the Board.

The property is in the historic preservation zone. Therefore, the applicant must demonstrate how they will preserve the character of the building, to enhance Main Street.

Mr. Schepisi asked the Board to consider which is better for the town? This use or something else?

Albert Zaccone, architect, 6 Casson Lane, North Haledon, was sworn in.

His credentials were accepted by the Board

Mr. Zaccone testified that the existing building, the Rialto Theater, is 80+ years old.

This building is showcased in the Village's "Design Guidelines."

The applicant's plan calls for opening windows on side.

The property is bordered by streets on three sides. Spruce is one-way north to south

The existing building has a marquee over sidewalk. There are emergency exits out the side of the building onto Cedar Street.

The existing building is 150 feet long. The balance is paved and gravel.

The existing parking lot has approximately 10 diagonal spaces. Utilizing them is hazardous, as the drive must back out onto Spruce St. The layout of the parking itself is not conforming

Ordinance would require 230 spaces

Regarding topography, the elevation at the corner of Main and Cedar is 111.79 feet.

The rear of building is 98.47 feet, having a drop of 13 feet, with a 10% slope.

Mr. Schepisi asked Mr. Zaccone to describe the status of the properties on Main Street from Mt. Vernon to Cedar Street. Mr. Zaccone testified that currently on the westerly side there are 3 vacant storefronts. On easterly side of the street, there are two vacant storefronts.

Would project improve RP? Mr. Zaccone feels it would be a "gentrification" of the area and other properties would follow suit.

Mr. Zaccone described the interior of theatre as having 520 seats, with a sloping floor and a stage for floor shows. At the stage, the ceiling height is 22 feet.

Prospective plans show an elevator to the second floor, with an entrance on Cedar Street to break up space. Only the rear part of the building can have second floor because of the slope. The front area has skylights.

The plans for the exterior of the building will maintain the character.

The applicant received preliminary approval from RP Historical Preservation Commission at their September 27, 2007 meeting. A copy of the minutes was marked at exhibit A-6.

The applicant plans to replace sidewalk, and recess the entrance on side. The brickwork may need to be repaired, and therefore they may introduce stucco.

Parking lot is 50 feet wide. The applicant wishes to maximizing safe parking. The plan will reduce occupancy requirement and will reduce the area of the first floor Current use as a theater, if built new, would require 220-230 spaces.

Mr. Schepisi asked Mr. Zacone to outline the negative criteria for this project.

Mr. Zacone sees no negatives.

Any proposed use needs more parking. He feels this is a less intense use.

Early on the applicant considered digging out under back of building for parking.

However, it was determined this was not feasible from an economic and construction standpoint.

Mr. Zacone acknowledged that there is a problem throughout the C1H Zone, with a lack of parking.

Mr. Zacone sits down.

The Board questioned Mr. Schepisi, since there has already been testimony by the architect that there are currently 7 vacant stores, why would these be rented? Wouldn't they just exacerbate an existing problem?

Mr. Schepisi stated that all of Main Street will become more attractive if this project is approved. All Main Street storeowners will profit from it.

The Board mentioned a conversion of a theatre to retail space in Pal Park on Broad Avenue, which was felt to not have had a positive result on the surrounding area.

The Board mentioned the municipal parking lot on Cedar Street, between Main and Bergen Avenue, which is in need of improvement.

The Board questioned where the employees of the stores park? Perhaps some will come by bus.

It was suggested that handicapped spots be designed out front or perhaps a handicap drop off area.

The case was opened to the public:

Within 200' in favor of the application, the following appeared:

Edward Cappelluti – 167 Main Street. He is in favor of the application. It is progress. He feels neighborhood parking is a non-issue. People will come to shop, if the stores are attractive.

Within 200' opposed – no one.

Outside 200' in favor:

Aviva Djija – Her father owns the Rialto Theatre. It has been in her family since 1969.

The opening of the Loews Theater on Challenger Road took away all their business. They could no longer compete for first run movies. Before that they could get 300 people for one show.

Mr. Schepisi closes. He wants the Board to consider voting that Zoning Officer's determination was incorrect. However, if Board agrees that a use variance is necessary, he hopes they will agree that he has demonstrated the benefits vs. negatives and that they will grant the applicant the use variance.

The Board went into Executive Session at 10:00 pm and returned to Regular Session at 10:10 pm.

The Board attorney, Mr. DeMarrais, states that it is his legal opinion that the applicant does not need a use variance. However, a parking variance may be required.

The Board then discussed the letter to the Zoning Board from the Planning Board regarding this case. The Planning Board had advised requiring applicant to put in buffer and recommended a fence in lieu of plantings.

Fred Rosen, Chairman of Planning Board, came forward and was sworn in. He detailed the Planning Board's feelings about the positive impact of a buffer zone, plantings, and fencing.

The Board discussed the testimony and determined that a use variance wasn't needed. It was agreed that a buffer would benefit residents and shoppers. Anything would be an improvement.

The Board went into work session and returned to regular session with the following decision:

Case # 1427 - Rialto

Mr. Vorhees, seconded by Mr. Frontera, made a motion to approve the application, subject to conditions to be outlined in the resolution.

Roll Call:	Mr. Cathcart – Yes	Ms. Perrotta – Yes
	Mr. McCormack – Yes	Mr. Vorhees – Yes
	Mr. DellaFave – Yes	Mr. MacNeill – Yes
	Mr. Wohlrab – Yes	

The resolution will be memorialized at the April meeting.

There being no further business, the meeting was adjourned at 10: 35 pm.

Respectfully submitted,

Linda Quinn
Board Secretary

Tape # 500