

**PLANNING BOARD  
REGULAR MEETING  
MINUTES**

**February 22, 2022**

**CALL TO  
ORDER**

The was called to order at 7:04p.m.

Via ZOOM Teleconference Link:

<https://us02web.zoom.us/j/7373206419?pwd=STZFRIBTRUVqTEk5MEp5Y1BhV2c0QT09>

Meeting ID: 737 320 6419

Password: 922644

Adequate notice of this meeting, as required by the New Jersey Open Public Meetings Act, also known as the Sunshine Law, has been provided by an Annual Notice sent to the City's official newspaper NJ Star Ledger on January 8th, 2022 and posted on the bulletin board of the Municipal Complex, posted on the City website, and filed with the Clerk of the City.

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**FLAG SALUTE**

The Board will then salute the flag.

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**ROLL CALL**

On a call of the roll, the following Board Members and Officials should be present:

**BOARD**

Mr. Raymond Giacobbe, Mayor; or,  
Mr. Eric Miles, Mayor's Designee  
Mr. Jeremy Mojica, Commissioner  
Mr. Frank Spallone, Commissioner  
Mr. Robert Simon, Commissioner  
Mr. Thomas O'Reilly, Commissioner  
Mr. Alexander Shipley, Commissioner  
Mr. William Cladek, 1<sup>st</sup> Alternate Commissioner  
Mr. Christopher Brown, 2<sup>nd</sup> Alternate Commissioner  
Mr. William Hering, Commissioner Vice Chairman  
Mr. Jeffrey Robinson, Commissioner Chairman  
Mr. Karl P. Kemm, Esq, Board Attorney  
Ms. Jacqueline Dirmann, Board Engineer  
Ms. Leigh Fleming, Board Planner  
Mr. Steven Decker, Board Secretary

Absent from this meeting: Commissioner Spallone

Prior to the start of the meeting at 7:02pm, Ms. Karla Timmons was sworn in as a commissioner of the board.

Chairman Robinson opened the meeting with the regulations and reading of the agenda into the record.

The following action took place.

Karl Kemm swore in board professional Leigh Fleming as board planner.

First to be heard:

329 New Brunswick Ave. Owners LLC. for 329 New Brunswick Avenue final site plan approval.

Board Attorney Karl Kemm said there is some additional information and revisions that may be needed on this application. He informed the board they may need to be heard again at the following meeting.

Steven Merman, the attorney for the applicant was introduced.

Chairman Robinson agreed with Karl Kemm's assessment that it may need to be heard again at the next meeting.

Mr. Merman explained that the applicants have obtained all necessary relief including preliminary site plan approval. Mr. Merman introduced Victor Vinegra to the board to address any concerns.

Karl Kemm swore in Victor Vinegra. The board has accepted Mr. Vinegra as an expert. He is appearing as both engineer and planner.

Chairman Robinson accepted him as professional.

Mr. Vinegra explained the board reviewed and approved the prior building. There were previously some DEP issues and a minor EPA violations at the site. The site was then sold to the client, however it was cleaned up before the sale. This is third time 329 New Brunswick is coming to the board. The first time was for minor improvements. They had constructed fencing, improved lighting, and cleaned up the site. API foils was the previous owner of the site. They had created disturbance in the wetlands area. The disturbance was cleaned up and trees were planted in the disturbed area. There was also an EPA issue with site contamination. The EPA has signed off that the contamination has been cleaned up.

Mr Vinegra shared a document from the EPA that shows the settlement of the action occurred on September 9, 2020. It is shown on page 4 of the document. The DEP also signed off on the site and said they had met all conditions. EPA also has signed off. Once the state and federal government signs off it is on file with the municipal clerk.

Mr. Vinegra then addressed the comments from Rahway City Engineer Daniel Lee. Mr. Lee had distributed a letter regarding some concerns the City had with application. The following letter was addressed:

1. Pursuant to discussion with the Board Engineer, the review of the Preliminary Site Plan application was limited since NJDEP permits were not in hand which could potentially significantly impact the proposed development. Accordingly, additional comments not typical of a Final Site Plan review by the Board and/or professionals must be addressed.
2. The South Branch of the Rahway River passes through the south side of the site. The Applicant shall be responsible for removal of debris and/or blockages within the portions of the river that are situated on the Applicant's property or access must be granted to the City of Rahway to enter the property for the purpose of the same.
3. There are several storm and sanitary pipes that serve the public on the site. The plans do not appear to indicate the existence of easements for same. The Applicant shall confirm the existence of easements for the utilities and access to same and produce documents confirming the existence of same. If none exist, the Applicant shall prepare and provide easements to the applicable entity (City of Rahway, RVSA, etc.) permitting the existence of same and access to same by the authority having jurisdiction.
4. Based on the provided soils reports, several of the Percolation Tests were performed at depths equivalent to the proposed surface of the basins and not below the surface at the elevation where soils will be required to percolate water. Cross sections of the proposed basins should be provided to confirm the depth of the bottom of the basins to compare to the percolation test results.
5. Commentary and potentially a study should be performed to indicate the impact to traffic on New Brunswick Avenue on account of the increase in traffic that will be created by the addition.
6. I strongly recommend that any engineering or planning related comments by the Planning Board or Board Professionals that require significant plan revisions be presented to the Board for their review, feedback and approval and NOT included as conditions of approval. The Board Professionals should be relied on for the determination of same.

The first item concerned the South Branch of the Rahway river which sits on the south side of the site. If there are blockages the city has permission to clean it.

Karl Kemm explained that in the DEP requirements it grants an easement to the city to keep the stream clean.

Attorney Merman said they will discuss with the client and won't have a problem granting access to the city.

He stated that a general site access agreement can be provided.

The next item discussed was the issue of several storm and sanitary pipes on site.

Attorney Kemm explained that any facilities and utilities on the property are provided easement for the city or the sewer authority.

Mr. Vinegra does not believe there are any storm or sanitary sewers on site.

Attorney Merman said they will check the site again, and if they are on site they will grant easement to the city.

The next item labeled #4 was based on provided soils reports.

Mr. Vinegra doesn't think this is correct, he stated everything needed has been provided by the DEP.

For board clarity, Mr. Vinegra has provided all plans needed.

The next item addressed was that there should be a traffic study performed for New Brunswick Ave, and to account for the increased traffic created from 329 New Brunswick.

Mr. Vinegra commented that in preliminary plans the client provided a report with the increase in traffic to the area.

The applicant can add an additional minor study to the amount of traffic if needed. They had originally supplied a report from traffic engineers Dolman and Dean. The study showed morning peak hour, and proposed use and volumes. The conclusion was that the low amount of trips associated with the facility will create no additional impact to the traffic. New Brunswick Ave is not a highly traveled road for its size.

Board Engineer, Jacqueline Dirmann was sworn in by attorney Kemm.

She explained that at the point of the original traffic review there was no idea of what type of tenant that would be using the space. She wants to know if they now know what type of tenant will be occupying the building.

Mr. Vinegra replied that a study was performed using standard shipping generation from a warehouse.

Attorney Karl Kemm wants a commitment from the applicant that any tenant in the space will be a permitted use.

Attorney Merman said he believes the owner will only be looking for permitted uses on the site.

Mr. Kemm said a condition of approval can be that the tenant will perform a permitted use. He asked that Mr. Merman discuss this with the client.

Mr. Merman responded that this will not be an issue. They are looking for tenants with conforming uses. For the purpose of the application, they will make this commitment.

Mr. Kemm was satisfied that all of Engineer Dan Lee's report was addressed.

Mr. Merman thinks it might be better for the Engineers to have a meeting to discuss all of the issues. He believes there may be too many issues to sort out at this point. He is open to any questions from the board members. Since this is a technical matter it needs to be sorted out by the professionals.

Board Engineer Jacqueline Dirmann then spoke about the items and questions that were addressed in the Board Engineer Report.

For item number two, she would like the applicant to provide any documents that might be needed to address the sanitary plan

Item number three and four concern the environmental cleanup. She would like to know where that stands at the current time.

Item number 5 regarding the traffic and possible traffic study.

Items eleven, thirteen, and sixteen are all related to truck turning and driveway widths.

Item seventeen was for garbage and garbage collection.

Numbers twenty and twenty-one regard the sanitary sewer and if the main extension shown on plan is what they are planning to have provided.

Number forty-one is in regards to any easements granted to the city for storm and sanitary

Mr. Vinegra responded to all the points in the letter brought up by Board Engineer Dirmann.

#2- If this site plan gets final approval, he will submit the TWA to the city who will have to sign off on these plans.

Ms. Dirmann believes the actual route of sewer might not be what is shown. She wants to know if Mr. Vinegra is confident that RVSA (Rahway Valley Sewerage Authority) will allow them to tie into the trunk line.

Mr. Vinegra says it is up to approval of RVSA.

Mr. Kemm added that if it is not allowed, they would have to come back to do a site plan amendment.

Mr. Vinegra explained that plan B is to use the existing pump station on site, and would tie into that to go to a different location.

#3 & 4- Harbor will make the DEP and EPA forms available to Ms. Dirmann's office. He noted that this issue has been closed out in the data miner.

Ms. Dirmann asked if that was the violation in the last 2 or 3 years?

Mr. Vinegra will supply all data from API. He had multiple meetings with DEP and they were satisfied that the site was good to go.

Engineer Dirmann followed up asking about the EPA Cleanup.

Mr. Vinegra responded that he has signed off the EPA that was discussed at the beginning of the meeting.

They have revegetated the area and it was complete. It is reviewed annually but closed out.

#5- Regarding the study of New Brunswick Avenue traffic and trucks going in and out.

Mr. Vinegra will do some quick counts of the roadway usage in order to show the traffic flow.

#11, 13 & 16 regarding the truck circulation around the site.

Mr. Vinegra stated the first meeting with planning board showed that trucks can make the turns on the site plan. He does want to discuss making the driveway slightly wider for WB-58s.

He also let the board know that all truck traffic to the site will have to go from St. Georges Ave, because the East Inman Ave bridge is too low to accommodate the trucks.

Attorney Karl Kemm notified that if widening the driveway needs a design exemption the board would grant it for safety purposes.

#16- The Engineer report had asked for more detail on the parking spaces for the trucks.

Mr. Vinegra will provide this information to the board engineers.

#17 regarding trash disposals.

There will be three large dumpsters for the new area. There is a large area in back of the existing warehouse for garbage. They are not processing materials at the new building and will only be shipping things out. There is also room for a 4th dumpster if they need it. Engineer Dirmann wants to make sure the trash area for the existing building is shown on the site plan.

#21 & 22-Regarding sanitary sewer. Mr. Vinegra stated that if approval isn't made from RVSA for the trunk line, the sewer is going to go the main line. HE wants a new system put into New Brunswick Avenue. The client is willing to put in a \$200,000 sewer system that can also be used by the public on New Brunswick Ave. The new gravity system will help the whole area.

Engineer Dirmann believes they should get an idea from RVSA to make sure the trunk line is approved.

Mr. Vinegra doesn't believe it should be an issue. The other business across the street can also use the sewer line if approved.

Karl Kemm, wants to recognize commissioner Mojica was back on the zoom.

Board Planner Leigh Fleming would like confirmation that the preliminary architectural plans have not changed. This would impact the parking. She also wants to know if there will be any signage, she thinks it would be beneficial to discuss any variants for signage, and how many tenants there might be.

Mr. Merman stated the rules on the signs would be for any tenant to comply, they do not want to have to come back to the board for signs.

Mr. Kemm wants to know if they will be ready for the March 22nd meeting, or would like to move to the April meeting.

Victor Vinegra, believes there isn't much to be done besides the road and traffic study. They would like to keep this on for the March meeting.

329 New Brunswick Ave. Owners LLC. was adjourned to the March meeting. No public notice will be needed.

Chairman Robinson explained it will be heard on the 22nd.

The public can comment when this application comes back to the board.

Chairman Robinson then discussed that the board had approved the amended Downtown strategic plan for the Master plan at the last meeting, and there are now two ordinances for the board to review for master plan consistency.

Board Planner Leigh Fleming explained one ordinance is for getting rid of the conforming uses going before the board. This is to help applicants, and not slow them down. It will also help to allow the Planning Board to have more time to hear other applications.

The second ordinance is an amendment to the redevelopment plan to get rid of restrictions on personal services and remove the prohibition of tattoo parlors. These are consistent with land use and housing element of the strategic plan.

Karl Kemm noted this was mentioned in Downtown Strategic Plan. It applies to the whole town and complies with master plan.

The amendment to the redevelopment plan is a separate ordinance.

Chairman asked to first discuss ordinance O-7-22.

Vice Chairman Hering asked that the public be heard on this.

Chairman Robinson opened the meeting to the public. There were no comments from the public.

Commissioner Brown has a question regarding the tattoo parlors. He believes there is already a tattoo shop downtown next to the art center.

He was informed that it had closed.

Commissioner Brown would like to know how that tattoo parlor was allowed if it wasn't a permitted use.

Board Planner Fleming believes they were either a preexisting non conforming use or went before the zoning board.

Vice Chairman Hering believes it came to the zoning board.

Commissioner Brown asked if we are getting a lot of applicants for tattoo parlors downtown. Wants to know why we are specifically looking at that industry.

Planner Fleming said that she hasn't received any applications. However, all arts uses are allowed, except tattoo parlors. They have emerged as their own type of art. The city wanted to create opportunity for it to be permitted with other arts uses.

Commissioner Shipley asked if what the city is doing is easing the restrictions for different types of personal businesses to move into downtown?

Ms. Fleming answered yes, this is the purpose.

Commissioner Shipley stated this seems to be making life easier to barbershops and beauty salons.

Planner Fleming reiterated that personal services are not allowed within 1000 ft or on the ground floor. This is a big restriction for businesses in a downtown the size of Rahway. Eliminating the restrictions opens up a lot of options for downtown.

Commissioner Shipley asked if restaurants with liquor license have the same types of restrictions.

Attorney Karl Kemm explained that the ABC only limits uses to distances from certain places (churches, synagogues, schools). Not with other establishments.

Commissioner Shipley stated we are hoping this will benefit the area.

Commissioner Brown asked for some examples of personal service use.

Ms. Fleming answered that they are any business to help someone's person, it relates to you and helps in daily life some examples (diaper service, certain types of laundry, shoe repair).

Commissioner Brown thinks hair salons and barbershops are most common. He wants to know if it's possible to just add these common types and then other types would have to come before the board.

Ms. Fleming believes this would be too gray of an area.

Attorney Karl Kemm explained that personal service uses are already allowed, but it's just removing restrictions and adding tattoo parlor.

Commissioner Timmons asked if we do away with the 1000 ft restriction, is there a new amount of distance implemented or can they just go anywhere now. Also, are we going to cap or put a limit on types of services. She is concerned five salons or barbershops right next to each other could be an issue.

Karl Kemm told the board the distance requirement will be removed all together. There could be three right next to each other. He believes the market and capitalism will dictate this. The personal services definition has not changed.

Commissioner Mojica believes there is a lot of variety and many niche services that are popping up. He thinks there is a large demand for these types of services. It would better serve our citizens and help fill in real estate downtown.

Chairman Robinson believes the market will dictate what happens and what types of businesses will be added. The city is just trying to make it easier.

Chairman Robinson opened the meeting to the public. No one had any comments.

A motion was made to memorialize the Planning Board's review of O-7-22.

**Motion: Commissioner Hering                      Second: Commissioner Cladek**  
**Yes: Commissioners Miles, Mojica, Simon, Timmons, O'Reilly, Shipley, Cladek, Brown, Hering and Robinson**  
**No: None**  
**Absent: Commissioner Spallone**  
**Abstain: None**

**Motion was approved.**

A motion was made to memorialize the Planning Board's review of 0-8-22.

**Motion: Commissioner Hering                      Second: Commissioner Simon**

**Yes: Commissioners Miles, Mojica, Simon, Timmons, O'Reilly, Shipley, Cladek, Brown, Hering and Robinson**

**No: None**

**Absent: Commissioner Spallone**

**Abstain: None**

**Motion was approved.**

A motion was made to memorialize the minutes of the Planning Board dated January 25, 2022.

**Motion: Commissioner Simon                      Second: Commissioner Hering**

**Yes: Commissioners Miles, Mojica, Simon, O'Reilly, Shipley, Brown, Hering and Robinson**

**No: None**

**Absent: Commissioner Spallone**

**Abstain: Commissioners Timmons and Cladek**

A motion was made to memorialize the minutes of the Planning Board dated February 8, 2022.

**Motion: Commissioner Hering                      Second: Commissioner Shipley**

**Yes: Commissioners Miles, Shipley, Cladek, Brown, Hering and Robinson**

**No: None**

**Absent: Commissioner Spallone**

**Abstain: Commissioners Timmons, Mojica, Simon and O'Reilly**

Chairman Robinson commented how the board has been dealing with the master plan. He informed everyone that the master plan is available online, and he encourages everyone to look it up and become familiar with it.

Vice Chairman Hering let everyone know that the Zoning Board meeting for February has been canceled. The board won't be meeting until March.

Engineer Jacqueline Dirmann informed the board that an application for 382-386 West Grand may be heard on March 22<sup>nd</sup> and Merck as well.

The board discussed going back to in person for March. However, Karl Kemm informed the board that we can't go back in person until April since 329 New Brunswick had been carried over.

A motion was made to move the April meeting back to in person.

**Motion: Commissioner Hering                      Second: Commissioner Simon**

**Yes: Commissioners Miles, Mojica, Simon, Timmons, O'Reilly, Shipley, Cladek, Brown, Hering and Robinson**

**No: None**

**Absent: Commissioner Spallone**

**Abstain: None**  
**Motion was approved.**

Commissioner Shipley brought up the Irving Street Bridge, and how he wants to keep watch on aesthetic look of it. The repair of the bridge is an opportune time to make it look appealing.

Mr. Mojica wanted to see if Mr. Shipley could be included in the discussion with the bridge.

Mr. Shipley said he can offer pictures of the bridge from 1900. It was then redone in the 1920s.

A motion was made for the Board Planner and Engineer to work with the county on trying to make the bridge historically aesthetic.

Board Engineer Dirmann commented that it is being looked into already. One of the reasons for the delay of the work is the county is looking into possibly adding an historic aesthetic.

**Motion: Commissioner Hering                      Second: Commissioner Shipley**  
**Yes: Commissioners Miles, Mojica, Simon, Timmons, O'Reilly, Shipley, Cladek, Brown, Hering and Robinson**  
**No: None**  
**Absent: Commissioner Spallone**  
**Abstain: None**

**Motion was approved.**

A motion was made to adjourn the meeting.

**Motion: Commissioner Simon                      Second: Commissioner Cladek**  
**Yes: Commissioners Miles, Mojica, Simon, Timmons, O'Reilly, Shipley, Cladek, Brown, Hering and Robinson**  
**No: None**  
**Absent: Commissioner Spallone**  
**Abstain:**

**Motion was approved.**

**Meeting was adjourned at 8:43pm**