

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, MAY 10, 2018. CHAIRMAN PICERNO PRESIDED.

The meeting began with an affirmation of the Open Public Meetings Act. The schedule of meetings is on file in the Borough Clerks' office, was posted on the bulletin board, and has been mailed to the Local Source, and the Star Ledger.

Pledge of Allegiance was led by Chairman Picerno.

Roll Call: Present: Mr. Schielke, Mr. Picerno, Mr. David, Mr. Grimaldi, Mr. Pantina, Mr. Callelo, Mr. Mazzeo, Mr. Jones. Also present were Borough Planner, Kevin O'Brien, Louis Rago, Planning Board Attorney and Mr. Christian Cueto, Planning Board Engineer. Mr. Cuppari and Mr. Ladauti were excused.

Approval of April 12, 2018 Minutes

Motion was made by Mr. Schielke, seconded by Mr. Grimaldi. All in favor.

Communications: Letter received from Mr. Pinto resigning from the Planning Board

Letter received from Robert Donovan in regards to Precision Escalator Products, Application #366 & #5-18

Letter from Dominick Reggio requesting an extension of time to June 14, 2018, for the Board to consider and decide on his Application #5-20

Mr. O'Brien said that Mr. Reggio does not actually have an application before the Board because he has not noticed. He has a pending application but until he notices he doesn't have a date. Mr. O'Brien said this is administrative. Mr. Picerno asked the Board Secretary to send a letter to Mr. Reggio to find out what is going on.

Resolutions: None

New Business: Application #366 & 5-18 Site Plan/Variance
Precision Escalator Products, Inc.
2 Mark Road, Kenilworth
Block 3, Lot 6

Meredith Marcus, Esq., from Hehl & Hehl on behalf of the applicant Precision Escalator Products, Inc. Ms. Marcus said she has her professionals here tonight, Mr. Ballou from Insite Engineering, Mr. David Collins, Architect and Allison Coffin, Planner. Ms. Marcus thanked the Board for allowing her the time to make revisions and she thinks everyone has received them. She appreciated everyone's comments from the professionals as well as the comments from the objector, Mr. Donovan. She said she received a letter from Mr. Donovan and have worked with him over the past month to try and resolve differences and address their concerns. He may speak at the end of the application and put his position on the record.

Mr. Rago advised that Mr. Ballou is still under oath from the April 12, 2018 meeting.

Eric Ballou, InSite Engineering – Mr. Ballou asked for the exhibits from the last meeting to show the before and after renderings.

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Mr. Ballou presented Exhibit A-4 which was the previous rendering of the site. Also presented was Exhibit A-8 which is a rendered site plan based upon the current site plan that the Board has in front of them. The first building change was that they cut back the building where the loading area was, previously we had a zero set-back variance because we extended the loading dock area all the way to the property line. In Exhibit A-8 you can see we actually cut that back and removed the bump out so we do not have that front set-back violation. The other goal was to try and get the big trucks, when they are actually utilizing the loading dock area to make sure they are going to be off of the public right of way onto our property. What we did to address that, based on the discussions that we had, we took the building and shifted it 5 feet toward the back. Where we had a 10 ft. set-back previously now the whole building has been shifted back and there are benefits to that. Before on the irregular corner we had a set-back of a little less than 4 ft. and now we have over 8 ft. of set-back and even at this irregular corner we are very close to being compliant with the front yard set-back. When we shifted the building back it allowed us to expand the parking lot area ... when we were here before we had a parking demand of 23 spaces and we were actually providing 15 spaces so we were going for a variance to be deficit of 8 spaces. With the new design and the redesigned building we are required to have 20 spaces based upon the warehouse and office use that is listed on the plans, what we are providing now is 22 spaces so we exceed the parking requirement and therefore removing our variance request for parking. Since the building moved back it allowed us to make the parking lot larger so that we can now get 18 spaces, to make up the other 4 spaces we still have a walkway along the frontage but then we have 4 spaces parallel to Mark Road but on private property so it is controlled by us. We looked at other designs such as perpendicular parking and having vehicles back up onto Mark Road but we did not like that because backing up on a road with large trucks is unsafe so we came up with a parallel solution to meet our parking requirement and provide safe parking along Mark Road. The other changes that we did regarding lighting, in the parking lot we lowered fixtures and tilted the angle of the light so that it lights the entire parking lot area. We also added a couple of lights, one at the loading dock area and one above the entry. One is to highlight the sign and the other one is the light above the loading dock area. These are more decorative type fixtures, the larger fixture for the parking lot is 200 watts, the two on the front part of the building are only 25 watt lights, they are all LED but they are very low wattage and it's mostly to shine light up against the building, not to illuminate the area. We shifted the walk way over to make way for the parking spaces and we put typical landscape walkway with 3 ft. lights that have decorative fixtures. On solid waste we now have a couple of garbage cans outside of the building on a concrete pad at the back of the property and that is used for employee garbage from their lunch time use. If the operations had a large trash use they have plenty of access to put a dumpster inside the building. Our lot depth variances that we spoke about before remains unchanged. Also the difference between the access for the parking lot and the loading area also did not change, 30 required and we are around 27 ½. We improved the front yard set-back but we are still asking for a variance because even though we are compliant for 95% of the building there is a small corner that we are still going for a slight front-yard set-back variance for 8.4 and the requirement is 10. One of the new set-back variances is the rear yard set-back, the property now backs up to a large parking lot behind us and we are not really infringing on anyone's rights at the back of our property but our building is set-back 5 ft. off the property line where your ordinance requests 10 ft. so that is a variance that has been added. As far as building coverage we spoke about that variance before... we are closer to compliance because our building footprint got smaller since we actually chopped off an area. He said we are over on building coverage by about 1550 sq. ft. allowable and most of it is a covered loading dock, the covered loading dock is about 1350 sq. ft. so if we had an uncovered loading dock, our coverage would be within 200 sq. ft. . It is really the covered loading dock, which we think is really good for the operations, is really why we are over on

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building coverage. The ordinance allows 80% impervious coverage and we are at 83.6%...the previous development was over 93% so we are still improving what was previously there but we do slightly exceed the ordinance. There are two criteria, maximum impervious area 80% and then they have a directly related 20% open space so if you violate either one you are really into 2 variances so we are asking for a variance for open space as well because you need 20% and we are at 16.4%. Previous development had about 6% of actual open space, even though we are asking for relief, these are still all situations that are better than the previous building that occupied and operated this facility.

Mr. Ballou stated there was a question regarding the downspouts and he said now the roof pitches from the front to the back so the downspouts are located in the back of the building where we actually revised our storm sewer system to pick up all of the downspouts...all of the roof water is now being picked up and being directed into our storm water management system within the basin. On the last report we captured ½ the building but when we revised our report and put another pipe in and we got the whole roof in there now.

Ms. Marcus asked Mr. O'Brien if he had any input regarding lighting.

Mr. O'Brien said the explanation was helpful about the light over the sign and because it is such a low wattage, that explains the very low isometric numbers below it. Mr. Ballou said the light is 26 ft. above grade... it is low wattage at a higher elevation.

Mr. Picerno asked if parking was allowed on Mark Road and Mr. Ballou said parking is allowed on Mark Road. Mr. Picerno asked if the 4 spots that are running parallel to the building are going to have curb cuts coming in one side and going out the other or is it going to be completely depressed? Mr. Ballou said it will be similar to what is across the street which will be 1 ½ " revealed so it will be depressed.

Mr. Mazzeo said he noticed the new exhibit does not show the office space...is there a reason for that? Mr. Ballou said the office space is still on the architectural plans but for this exhibit, he wanted to keep this as a clean plan and let all the architectural square footage stay on that plan...so this plan is just a simplificationthe office is still on the architectural plans.

Mr. Pantina asked if they developed a scenario to comply with the ordinances? Mr. Ballou said no. Mr. Pantina said if you complied with the building coverage, the impervious coverage and open space then the only variance you would need would be the lot depth? Mr. Ballou said possibly the front yard set-back. Mr. Pantina said he understands you pushed the building back and the larger trucks are no longer hanging over the front which is a good thing, is the depth you have it at right now critical to the trucks staying in the building? Mr. Ballou said yes. Mr. Pantina said I guess you would want to keep it rectangular and either reduce it in the back or on the east side....how is that going to affect your working area? Mr. Ballou said it is going to decrease it...the applicant really needs this size building to properly do its operation so by making the building smaller it becomes not feasible for this project to work. Mr. Pantina said you are starting from scratch and you are only off by about 3%. Mr. Ballou said in operations that could be significant.

Exhibit A-9 was introduced by Mr. Collins.

Mr. Collins thanked the Board for their comments at the last meeting...they were very constructive and helped us make very beneficial changes to the project. We have taken the piece facing Mark Road and removed it so the building is now more square. We have focused on the part that you see coming down mark road which is the entrance to the office area. We tried to consolidate the design a little because cost is a big concern for his client. We created the different treatment of the façade and the office area at the corner. The corner is very visible as you come down Mark Road, we lowed the masonry to change the height and we added some banding and treated it with a stucco finish with a cornice line and some trim lines and we also recessed the entry doors into the building which was a suggestion of one of the Board members which gives depth to the building. On the east corner you can see that same treatment is set back to capture the corner.

Exhibit A-10 – This is a rendering that they did their best to fit the model into an actual photograph from the street, the scale is not 100% perfect but it is pretty close and it gives you the idea of the way the building looks. He said his exhibit shows as if he were standing in the middle of Mark Road and the entrance to the industrial park is to his back so that everyone that comes into that industrial park comes down Mark Roadthis is what they will see. The neighboring building is set back so you can see how exposed part of the building is and he thinks this treatment looks really nice to mark the corner and create a nice entry. We pulled the ramp away from the front of the building and concealed it behind a low garden wall and some plantings and because of that we just have to have a simple little rail and you come in at grade, go up the ramp and come in the office door on the side so that we are barrier free. We are barrier free on the west side as well because the parking lot slopes up to meet the at-grade drive in so we have both sides of the building and a complete interior path for barrier free access. We changed the roof to a single pitched roof and that helped us a lot with drainage and helped us get a lot of the leaders and gutters out of sight into the back of the building and because of the grade it was much easier to connect into the storm system. If you look at the west elevation you will see that this building is high on Mark Road and slightly slopes back to the back of the building. He said although the drawing shows a flat parapet we would actually prefer to keep it at the pitched angel with the trims the same way as the west side, if the Board is OK with that? The rack trims on the west side exterior match the line of the roof slope, we originally intended to keep the east side as a flat parfait with a thin coping at the top but it actually, in retrospect he thinks they got a little bit more...the dotted line is the line of the roof beyond the parfait and they would like to follow that with a rack trim to match the rack trim on the west side. One of the comments was that we did not treat the west side heavily architecturally and that is intentional and because of costs but he thinks it is a better alternative because Mark Road is a dead-end road and there are a lot of people that travel into the park and see the building the way we see it in Exhibit A-10 but it dead ends and there are not as many people coming back the other way so they felt it was appropriate to spend the money on this piece. There was also a question about windows...in the old design we had windows on the south side and we have eliminated them for costs and it is better that we have the windows on the north side...the light is more even coming into the warehouse. We have kept the windows on the north side and illuminated on the south side of the building. The materials are still the same, we have metal panel, decorative block along the base and we are introducing this effice. Mr. Collins distributed the color sample to the Board. Mr. Collins said the floor plan, except for the removal of a portion of the loading dock that was sticking up to that zero lot line in the front, the plan is generally the same, the office configuration was adjusted ever so slightly, we had 3 bathrooms and we changed it to 2 bathrooms and we pushed lines around to get the

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ADA access into the back but the key is we have 2,040 sq. ft. of future office dedicated to the building balance. The loading dock is 1,350 and the warehouse is 11,450 and the office area is 2,040.

Mr. Picerno asked what is the height of the new front façade? Mr. Collins said, based on your ordinance, we took the existing average grade which is 9.45 and went 40 ft. to the top piece so we are only at 37.4. Mr. Picerno asked what it dropped down to? Mr. Collins said from finished floor its 32 but if you were to average from an existing grade it is probably closer to 34 but the reality with the finished floor is 32.

Mr. Schielke asked if Mr. Collins was going to address if the sign is lite on the front of the building? Mr. Collins said we were originally proposed an internally lite sign which we followed your regulations but we can eliminate the internal illumination since we have the decorative light fixture directly over it...that was our intent in the revision, if the Board prefers to have it lite with just one light that is fine.

Mr. O'Brien asked if there was a reason to have both lights both internal and above? Mr. Collins said there is no reason to have both...we could eliminate the internal once we put this fixture on...the fixture could light the sign by itself.

Mr. Schielke asked what exactly are you asking for with the parking variance....are you asking for a parking variance? The parking variance was eliminated.

Mr. Mazzeo asked if the overall footprint changed and what is the net difference...if the office space is the same...did the warehouse space get smaller? Mr. Collins said the loading dock got a little bit smaller.

Mr. David said that was the only thing changed in the building footprint so basically moving the building back was the main effect.

Mr. Picerno said in order to achieve that bump out where the loading dock was ...you had to move it back so the trucks can get in and out. Mr. Collins said it allows the biggest trucks to be on site when they are fully backed up which was the issue before. The issue before was that although we came up with zero lot line...the small right of way piece...a little bit of the truck would have been sticking out there and now we have resolved that by pushing the building back. Mr. Picerno said that is why you are asking for a 5 ft. set back instead of the 10 ft. that you had on the previous drawing. Mr. Collins said it also makes our front yard set-back variance that we need now a little bit better and that is due to the skewed street line and very skewed corner so we are really just dealing with this one little corner.

Mr. Grimaldi asked Mr. Collins if the building is going to be a pre-fab steel building and Mr. Collins said yes. Mr. Grimaldi said it is very important for you to have regular column bays and that is why you are not differing on many things....if you wanted to do the loading area outside it would probably end up exposing more area outside to stay with your consistent bays of your construction type.... He said you would be exposing loading things on and off the trucks to the public rather than being contained inside. Mr. Collins said that is exactly right so the building coverage issue is a benefit because all of the things you just talked about will be inside the building. Mr. Grimaldi said if you were using a different building type then the .16 ft. we could probably adjust...it would be an easy thing for you to adjust except for the fact that the building type you are using....it makes the structure impossible to work with to cut off a 1 ½ ft. and go from the 6 bays being regular to 5 bays and the 1 bay being screwed up and would take the

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economics of the job into a different direction. Mr. Collins said that is correct and there are other benefits we have 80 ft. clear span so a steel ridged frame has a lot of benefits and to get that span to work with other types of construction is pretty challenging. He said there are a lot of benefits to using a metal building in this type of situation.

Mr. Pantina asked if although it may be challenging is there absolutely no way you can comply with the impervious coverage unless you change the building and unless you find something that would work for your application?

Mr. Collins said that is a loaded question and he thinks that the consideration of having the loading dock internal, in his professional opinion, is more of a benefit then shortening the building, making that building coverage become compliant with the building coverage ordinance and then having some kind of canopy to cover a little piece of concrete that is sticking out in the back and having trucks always exposed on the west side.

Mr. Pantina said he appreciates Mr. Collins opinion and the reason he is asking this is because the Board is here to maintain our ordinances as much as we can...obviously variances are given where they are necessary but basically even though you refer back to the previous application...the previous application does not exist anymore because you have an empty lot...so you have an empty lot and you are creating variances...and I keep pressing the issue because I have not seen where you even presented another idea.

Mr. Collins said that is a fair question and it is a challenge to answer that specifically...there are a lot of factors that came into play on why we chose this building type, why we made the building look the way it looks so that it could function the way it is supposed to function and it could meet our clients budget. Those things....the program and the budget are the things that drove us to design the building the way we did. A lot of aspects of a metal building are restrictive and a challenge to work with but if we were forced to comply with the building coverage we would be forced to take the loading dock and make it exterior...you need a certain amount of space and the client needs the warehouse space so he can't take it from there but he certainly can take it from the loading dock area so if we have to comply that is what he would recommend to his client.

Mr. Grimaldi said so if you took off the last bay off which is 26 ½ it would still be a skin wall at the end of the building so if you took the last bay off it is 26 x 80 you are about 2000 square feet. Take 2000 sq. ft. off and at that point and they can be in compliance with everything but that is where as a Board when we look at something ...yes that would bring this building into compliance because at that point if it shimmies over and you lose the corner then you have a concrete dock sticking out that a 67 ft. trailer could back up to and you would have a canopy that would get beat up by some bad truck driver and all the stuff would come out of the box exposed to all the neighbors and then go in a garage door. Mr. Grimaldi said he appreciates the applicant coming and spending more money first rather than coming with that solution and us asking why don't you clean up your act and enclose all this.....so the way he is viewing this is that although he is looking for a variance from what we have, he is giving us a better product.

Mr. Picerno said there have been some good pros and cons of why we should and shouldn't but at the end of the day he thinks Mr. Collins and his team took some of the recommendations from the Board and made it even better by pushing it back so where the eye line is..... is where we really want to focus in on....given the fact that he has that 5 ft. set-back on the parking lot side to the adjacent propertyhe thinks they are making every effort in that respect, he does

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not want to things hanging off shelters, awnings he does not want to see that at all and that is what we are trying to eliminate.

Mr. O'Brien said with the removal of the downspouts from the front façade they did act to break up that large mass which is broken up with the windows at the top and the brick at the bottom but still there is a lot of mass...is there anything else that can be done along that façade? Mr. Collins asked on a horizontal scale or a vertical scale? Mr. O'Brien said on a vertical scale. Mr. Collins said that economics is not the Board's concern but one of the draw backs to metal buildings is the way the building is put together with their ridged frames and the horizontal system...they are really meant to be skinned.....anytime you try and change the depth of the façade front to back it is very challenging.....it would be a lot easier if it was stucco because he could add insulation and bump things out and he could do a lot but once he gets into the metal panel it is not only challenging it is asking for water infiltration because you are getting everything on a plane so he would really prefer not to put any vertical breaks in that wall for the betterment of the building. Mr. O'Brien said you have some texture on the east wall but as you look at it coming down the street, that façade is going to be fairly prominent because now it sticks out and he asked Mr. Collins if there was anything he could do to that façade to break up that monolithic appearance. Mr. Collins said if it is OK with the Board they can add a couple of windows similar to the north elevation. Mr. Picerno said he thinks that would balance out the building.

Mr. Jones said you have a couple of reveals and some cornices is there a way you could maybe introduce a complimentary color in those cornices and reveals...maybe something complimentary to the applicants color scheme in their logo? Mr. Collins said we certainly can do that...all the trims, the top cornice line and the horizontal trims and the line on top of the front door...probably what would be the cleanest way is to use the same color as the metal panel and tie those together...we could certainly use the colors of the business which is certainly an option but we do already have 3 colors on the building and maybe we should stick to the 3 and use the lighter grey and the darker grey on the stucco and trim it out in lighter grey.

Mr. Grimaldi asked if the logo is black and red....and the answer was yes...Mr. Grimaldi asked how about a red strip or a red cornice.....something to make it pop.....three shades of grey is too much grey.

Ms. Marcus said the applicant would be fine with red.....colors are not his concern.

Mr. O'Brien said to Mr. Collins that he had indicated before that all you needed was one of those lights for the signage....which one would be the most appropriate to keep? Mr. Collins said we were talking about the decorative lite and this proposal was that we were not going to internally light the sign...just the decorative picture over the top of it. Mr. O'Brien said that will provide enough lighting on that side? Mr. Collins said yes because it projects off the building, like a gooseneck. Mr. O'Brien said you think that would be better than illuminating the sign from behind? Mr. Collins said we are using the light for other reasons... to light the façade and the internally lite sign will just light the sign not the façade. He said they could put a recessed light under the light. Mr. O'Brien said you can keep the sign illumination and get rid of the gooseneck and Mr. Collins said yes.

Mr. David asked if there was an agreement to add windows on the east side? The answer was yes.

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Mr. Picerno said symmetrically you would have a count of 6 windows and you would just fit that into the scope? Mr. Collins said there would one per bay and he said he would have to reduce the width a little bit these are probably a little too wide to sit inside these bays because these are 26 and these are 20 but he will make the adjustment and put one in each bay and make it appropriate portions.

Mr. Grimaldi asked Mr. Ballou if all the telephone poles and utility poles are getting removed? Mr. Ballou said they are being relocated, the utility plan shows that because some of the utility plans conflict with the loading dock area so we are going to have to shift the wires along the area, there are still less than 100 ft. span between the stalls. Mr. Ballou said there are about 2 poles missing and where the parallel stalls are we are going to have to span that.

Mr. Cueto said to Mr. Ballou for 22 parking spaces you only need 1 ADA ramp by New Jersey standards. Mr. Ballou said we did an 11 ft. wide stall and then a 5 ft. landing which is the concrete...and lately the new code they are pushing is essentially.... instead of doing 8 and 8, the new ADA codes are preferring 11 and 5 because when they had the 8ft. wide stripes people were parking inside the islands so now they are doing 11 and 5 for the last couple of years. Mr. Cueto said he is not sure having a 5 ft. isle outside the property is compliant. Mr. Ballou said it is just a landing area.....it is a flat surface area within 2% so it is no different than a sidewalk and at the same time the ADA code does always promote putting the ADA stall as close to the accessible entrance as possible so we think the ADA stall should be located closest to where the office operations are because that is probably the higher likelihood that that space would be used. Mr. Cueto said he has never designed a space outside the property it has always been inside regardless if it's 10 spaces or 25 spaces. Mr. Ballou said it is a little unique...the whole area is a little unique at the same time the design is compliant with ADA regulations from an engineering perspective and compliance..... it is a compliance stall. Mr. O'Brien said not exactly because it is not on your property. Mr. Ballou said the ADA code doesn't really speak to the property lines, it speaks to the ability to park there and also get out of the vehicle and since it is a public right of way they should have access to the use of that sidewalk. Mr. O'Brien said then you would be unloading from the driver side of the vehicle and all those vans unload from the passenger side. Mr. Ballou said that ADA codes do not really specify ... you can have one or the other ...even though one can be more preferential but they actually do not require you to have the loadings on any particular side. Mr. Picerno asked what would be the alternative? Mr. Ballou said we could place the stripping at the on grade loading area which is not really used except to maybe get a fork lift in every so often.... we could stripe that area and we would have it at grade access ..but they would go through the warehouse operations vs. going through the office which we thought was more compatible with the ADA stall. Mr. Picerno said so there is an alternative. Mr. Cueto said or you can move the green area closer to the sidewalk more toward the parking area is now...Mr. Ballou said take away some of the open space? Mr. Cueto said no ...where the 18 spaces are and take the top corner and make that.... Mr. Ballou said we could do that if we are willing to increase impervious area. Mr. Picerno said he would not want to take away that green area...it is right by the island and is your curb appeal and that is what we have been looking for. Mr. Grimaldi said that ADA also speaks to the shortest distance and when you do ADA surveys it speaks about getting the person to the public right of way. He said he has had clients who have received fines from entrance to parking lot and navigating the public way...and even though it's the public way it is their route and the DOJ has fined against that so in this case the public right of way is part of his solution. Mr. Pantina asked if he can use the public right of way? Mr. Grimaldi said the DOJ has imposed the public right of way as a fine against...because it speaks of your route to be accessiblehas to get you to the public right of way and into your spot so they have used it from their side sooooo...he knows it is a little unordinary and he would probably feel a little uncomfortable doing it also but it's there. Mr.

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Picerno said let's think about the ADA requirement, that person who would need that spot would want to be closest to the door and not so much in that back warehouse and truck through the warehouse. Mr. Cueto said he is not finding anything...he is not sure who regulates this if it's someone who comes by one day and says....? Mr. Picerno said we have an alternative route so right where it is going on the plan it seems like it can go there, if it can't, he has an alternative move which he thinks would be somewhat ridiculous to put it back there. Mr. O'Brien said it certainly complies with the intent of what they are trying to do here, as a Board we have no authority to grant him the use of the right of way so they can put it on the Site Plan but we can't enforce it. Mr. Ballou said if we uncover a code we do have a retro fit solution so our plan would still be compliant with some stripping and a sign moved so if we come across this issue we have a fix. This stall would be less than 2% grading in all directions so it will meet the slope requirements so this stall will be ADA adaptable. Mr. Picerno said if there is no code or ordinance that you can find, the ADA parking spot goes there, if not it goes to the back.

Ms. Allison Coffin, Planner was sworn in by Mr. Rago.

Mr. Rago asked Ms. Coffin if her father is a planner and Ms. Coffin replied yes and Mr. Rago said he has worked with her father Jim Higgins. Ms. Coffin said she works for her father and she has a current planning license and is certified.

Ms. Coffin said we have a property that is 26,675 sq. ft. and had previously been developed with an industrial building that has been removed leaving us with a gravel lot. The prior conditions were non-conforming with regard to lot depth, front yard set-back, rear yard set-back, side yard set-back, building coverage, impervious coverage and unoccupied open space. Right now only the lot depth variance condition persists because this is just a lot full of gravel. The applicant is proposing to construct an office and warehouse building with associated parking and loading and landscaping and signage and lighting. The site is located in an industrial area and in an industrial zoning district so the use is permitted and appropriate for this property. We are requesting some bulk variance relief to allow for this development and that includes the lot depth which is an existing condition, front yard set-back at the little corner in the front, rear yard set-back, eliminating that side yard set-back that had previously existed but we are still looking at building coverage, impervious coverage and unoccupied open space. Variance relief for this type of variance is known as the bulk or the c variances and there are two tests in the Municipal Land Use Law for this type of variance. The first is the C-1 standard that is commonly called the hardship and that is when something that is unique to the lots existing shape, topographic conditions, legal pre-existing structures creates a situation where the strict application of the ordinance would result in hardship. The second standard is the C2 standard that is standardly called the flexible C standard and this is justified when the purposes of the Municipal Land Use Law are being advanced by the requested variances and the benefits of the variance substantially outweigh the detriments, this is when can comply but asking for variance relief produces a better product, so this is the variance for that standard. She said it is her opinion that the variances we are looking at tonight, some of them can be granted under the C1 hardship standard and some of them can be granted under the C3 flexible C standard. So looking first at the C1 hardship, the lot depth, the front yard set-back, a little bit of the rear yard set-back can be granted under the C1 standard because there is hardship that creates the need for these variances. The lot depth non-conformity is an existing condition, the ordinance requires 100 ft. of lot depth and because we have that jog in the front line, the subject depth has a depth of 95 ft. The lot is unusually shaped at the one corner, a small bit cut off and the irregular lot line at the frontage results in a small portion of the building front extending into the front yard at this point. She said it is her opinion that the relief that is being requested here is also little because it is just a small corner of the building. The majority of the building along the

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frontage is well behind the required 10 ft. front yard set-back, so we have an existing shallow depth and an unusual shape on the front of the lot which means there is less lot depth available for this building. The building extends as a result of that 5 ft. into the rear yard which is equal to the amount of the lot depth by which the lot is deficient and the building would actually fit within the required set-back lines but for the fact that the corner of the front has resulted in us moving the building back 5 ft. from where it had previously been approved to reduce the impact along the frontage. If you look at it under the C2 standard, the flexible C variance there are 2 purposes of the Municipal Land Use Law being advanced here, the first is purpose G with regard to providing an appropriate use in an appropriate location, it is an industrial building in an industrial park and purpose J with regard to promoting a desirable visual environment. What we have here is an application that could be more conforming if the applicant didn't cover that loading dock and enclosing that activity provides a more desirable visual environment as well as pushing the building off the frontage and into the rear yard set-back also allows for greater landscaping along the frontage also providing a more desirable visual environment. She said it is her opinion that the benefits that are associated with this site plan with the variances substantially outweigh any detriments. The benefits in this case include redeveloping the site with a viable and appropriate industrial use, a visual improvement to the character of the area through the additional landscaping, the improved architecture and enclosing all of the business activities on the site, provision of more than adequate parking supply, removing the parking at the site from the surrounding roadways and improving storm water management for this lot by providing a storm water management system where none have previously existed. It is her opinion that there is no negative impact that results from the variances that are being requested. There are two potential impacts that could result from the variances that we are looking at for set-back and coverage, the degradation of your visual environment and the impact on storm water management, there is no impact in this case to the visual environment that is negative. The proposed building has a significant improvement over what had previously existed on the site. The building conforms to the visible front yard set-back in all but the slightest intrusion at one corner and the applicant is installing significant landscaping to enhance the visual character of the site along the frontage where it matters most. There is no impact to storm water drainage so although we are over on coverage, the applicant is proposing a storm water management system which will mitigate the excess coverage and improve the prior conditions. There might be some relief that is required for the distance between the two driveways, it could also have an impact on safety, if that relief is required one driveway is a loading zone which would have limited traffic, not a driveway that serves an active parking lot and the minimum nature of the traffic that is proposed in this case would insure that there would be no detriment resulting from these driveways being 27 ft. as opposed to 30 ft. apart. She said it is her opinion that the benefits substantially outweigh the detriments. For variance relief is whether or not you substantially impair the intent and purpose of your Master Plan and Zoning Ordinance. In this case the use and the structures are permitted and appropriate and the applicant advances several purposes of your Master Plan in regards to retaining existing commercial establishments with a positive regulatory climate, strengthening the appearance of commercial districts by adopting design and landscape ordinances and encouraging the development of the Borough economic base by expanding the number of permitted uses to generate employment growth, increase property values that promote the improvement of underutilized properties. All of these purposes indicate to her as a Planner that what the Borough would like is to improve your economic base, allow for commercial and industrial uses to flourish in the town and that is the nature of this application.

Open Meeting to the Public on Application #366 & 5-18

Motion was made by Mr. David seconded by Mr. Grimaldi to open the meeting to the public. All in favor.

Bob Donovan, McElroy, Deutsch, Mulvaney & Carpenter, LLP representing Mr. Savino, SJS Holdings, 2 Mark Road, Kenilworth. Mr. Donovan said Mr. Savino was at the original hearing on this application. He said he has had candid conversations with the applicants counsel Mr. Hehl and he has given the Board a letter which sets forth their concerns about this application. We are withdrawing that objection based on an agreement. He said he does not want to characterize the testimony other than to say that the testimony is what it is...it appeared that there was a potential for this application not to be involved in a use for warehouse but perhaps for something else. He said as long as, if the Board is inclined to grant this application, we would like some level of assurance or a condition to make sure it is clear that the approval is based on the use of warehouse where so designated in the application. That was the conversation he had with Mr. Hehl and we memorialized that in a letter to the Board yesterday.

Mr. Picerno said the letter states that the condition would read that you would not object to this if the space was used for warehouse only. Ms. Marcus said that she thinks Mr. Donovan's client would like it to be used for what we say it is going to be used for. Mr. David said yes the warehouse would be for warehouse and the office space would be for an office. Ms. Marcus said they wanted to make sure that we were not going to use ½ the warehouse space for assembly/refurbishing or other things that would generate a higher parking calculation. Ms. Marcus said she discussed this with her client and she advised him that this is the application and if wants something different he would need to come back to the Board....so he is on board. Mr. Picerno said to Ms. Marcus.....you are OK with the way the application is being presented as long as we approve it that way.

Mr. Donovan said, so the Board doesn't think we are making a mountain out of a molehill, in the letter we addressed some testimony that there could be refurbishing of material at this facility and that was the cause for concern given the fact that parking is such a premium, it appeared that the applicant was holding out for a potential use of it in warehouse. That is why we wanted to be totally transparent and say we are going to object but if you are saying that what is being designated is warehouse will only be for warehouse and not light industrial or anything else we will withdraw our objection. We would like, if there is a variance granted that the resolution reflect that because the testimony from the applicant is what it is...so that was the basis for the objection.

Mr. Rago said to Mr. Donovan, in your discussion with the applicant do you both agree on what the definition of what warehousing is.....he is assuming it is just passive storage? Mr. Donovan said yes that is their position. Mr. Rago said if a guy hammers a nail in that area, in your view, is that not warehousing? Mr. Rago said he just wants to make sure you two and the Board understands what warehousing means. Mr. Donovan said from his perspective the applicants testimony said that they perform step operations and then later testified that that refers to refurbishing escalator steps, refurbishing material clearly would not be, in his estimation, warehousing it would be more like lite industrial. He said that was the trigger point and then when we were told that no they will just be using it solely for warehouse, from our perspective that would exclude refurbishing activities, hammering a nail is another ballgame.

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Mr. Pantina said the application says office/light manufacturing and that needs to be clarified. He said the application is exactly what it is and is transparent and if you read through the application, what you and the objector might be coming to an agreement on is all well but if it contradicts this application? Ms. Marcus said not it does not, that light assembly/office that is for 2,040 sq. ft. and it's on there so she thinks that what Mr. Donovan and his client is are saying is the 11,000 sq. ft. that's for warehouse, stays warehouse and you don't take any of that office or light assembly and move it into the warehouse space because now you would be looking at a more parking demand. We can't really anyway because of the parking calculation is different.

Mr. Frank Savino was sworn in by Mr. Rago.

Mr. Savino said there are definitions for warehouse and there are definitions for light manufacturing or assembly. Warehouse is a passive storage of goods whereas light manufacturing or the other activities, which were described by the property owner more closely fits into light manufacturing and as such if that classification were to be applied to this application the parking requirements would be substantially different by a factor of 2 so instead of only requiring 22 spots they are claiming they do not need a variance for but if it turns out to be a light manufacturing facility now the calculation goes to over 40....we are saying the application is what it is but we don't want to see just for the sake of getting the building built that they are misrepresenting what their intentions are.....that they are really going to do manufacturing but they are saying they are going to be doing warehousing.....what we are saying is that if they say they are going to be doing warehouse and the definition is defined in the code then there is no issue but if they are going to be doing manufacturing then they should be saying that they are doing manufacturing and that should be the subject of whether there should be an approval.

Mr. Picerno said if this application is approved and they are allowed to do some light work there in that 2000 sq. ft....at the end of the day we are not policing that. Mr. Savino said we want to be cooperative and not impede anyone's business but at the same time we don't want to have a situation where it would impede my business. He said if they have 22 parking spots that they have allocated now and at the last hearing it was indicated that they are going to have 20 people working in the warehouse and then potentially some office people now that puts them over that 22 spots minus the one for handi cap. He said maybe there is a little wiggle room but if it turns out that they are underestimating their 20 quantity and maybe it's really 30 and maybe they will have 6 people in the office and now we have 36 people reporting to work in cars and we have 22 spots and we are 12 parking spots short now there will be conflict for street parking and that is his point. He expects them to accurately represent what they are going to be doing which they did and if their category should be some other category which has a different calculation that is what ought to done....if they say they are doing warehouse we expect them to do what the definition of warehousing is.

Mr. O'Brien said that our ordinance clearly defines warehouse as well as limited manufacturing and those definitions are in the ordinance and they can be referred to as part of the resolution. On page 770 of the ordinance "a building for the storage and redistribution of commercial or industrial products and materials which shall not include truck terminals where products or materials are directly transferred between trucks. If direct sales to the public are made from such storage building it shall be classified as a warehouse" Mr. O'Brien said storage or redistribution are the key terms. Manufacturing which is on page 42 of the ordinance states the fabrication, processing or assembly of goods and materials or the storage of bulk goods and materials where such activity goods or materials create no major hazard from fire or explosion

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produce no toxic or corrosive fumes, gas, smoke or odors produce no obnoxious dust or vapors, produce no offensive noise or vibrations, glare, flashes or objectionable...or produce no danger for radiation”.

Mr. Savino asked what are the parking requirements for each one of those occupancy classifications? Ms. Marcus said 1,000 for warehousing and 400. Mr. Savino said warehousing does not require a lot of people, manufacturing requires a lot of people.

Mr. Picerno asked Mr. Grimaldi to read the caption that is on the plan. Mr. Grimaldi said on the site plan we have a listing/breakdown of the square footage...warehouse is listed as 11,450 sq. ft., office/light manufacturing is 2,040 sq. ft. and the remainder is loading dock of 1,350 sq. ft. for a total of 14,840 sq. ft. Mr. Picerno said to Mr. Savino what you are asking is already on the plans so it is not a form of a “condition” if this was to be approved...they have to abide by the plan. Mr. Donovan said because of the testimony of the applicant where he held out for potentially, in our view, doing light industrial work or manufacturing work in the warehouse and since we formally objected and then withdrew the objection, he would like that reflected somehow to memorialize what happened, whether it’s a condition...he understands that the application is what it is but the history showing that there was an objection and withdrawn based on this understanding. Mr. Picerno said there is a bit of redundancy there but he is sure we could accommodate something but a condition is usually above and beyond. Mr. Donovan said in the event the Board were to approve the application he would ask opposing counsel protocol being that applicant then submits a proposed resolution for the Board to consider. Mr. Rago said the Board drafts the resolution. Ms. Marcus is asking when we get it to circulate it to him or you can do it to both of us. Mr. Donovan said in other words I can make suggested caveat language for the Board to consider? Mr. Rago said if you want to suggest a tweak then that is fine.

Close the Meeting to the Public on application #366 & 5-18

Motion was made by Mr. David, seconded by Mr. Grimaldi to close the meeting to the public. All in favor.

Ms. Marcus said that Precision Escalator makes parts for escalators, no escalators ever come into the facility, when he talked about refurbishing, she does not remember him using that word, but she thinks they get some parts together they probably put them together and ship them out to the customers so that is why they wanted the option of the light assembly in there. Since Mr. Maroukian is in the process of buying 515 Michigan which will be his 3rd building... she does not think they will have to come to the Board, he thinks he changed a little bit about where will he put all his operations and how is he going to do it. His testimony was really in the moment of well maybe this and maybe that....but she has talked to him several times and told him this is your application and if you want to do more manufacturing or assembly then you would need to come back to the Board so he understands that, we understand that and we have also explained that to the objectors as well. She said she hopes that this helps to clear it up and why we did what we did.

Mr. Rago said so the odds of this building having another application down the road to make it bigger is probably not too high? Ms. Marcus said no we will not make it bigger, he would just change the use and we would have to come back for a use and parking if that is what he needed but she does not know that that’s what he needs so right now we are not doing that, this is what we started with and this is what we are going with.

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Mr. Grimaldi said he does not want to come off as if he is selling this job but he listened to what they were saying last time and he knows what we insinuated we were looking for and knowing what we have....we have a lot of spaces ...this one bay would get taken off they wouldn't build it..there would just be that concrete mass at the end and he is not choosing to do that so he appreciates that. Except for the depth of that truck and if this was a depth of 100 ft. lot then the depth of the 100 ft. lot and the truck would make his building work but that 100 ft. lot which he dedicates 2 pages too showing the turning movements that...it's not his opinion...he has proof on his drawings that the depth of the tractor trailer coming ...there was a reason for this building to get push back...we all hated the bump...it makes the very confining street even more confining....he took that suggestion, he did something else and it results in another variance but it is the lesser of two evils of variances and there is substantial benefit to our street scape to the front...architecturally he would love a lot more things done but it's a warehouse...its nice...architecturally there is an entrance now and that's what we asked him for.

Mr. Mazzeo said it advances what the Master Plan is looking for economically ...he thinks we all agree that we are dealing with a known entity who is doubling down and maybe tripling down so to him that is good.

Mr. Pantina said that listening to all the proofs and discussionsseveral have worked with me for a long time and he tends to observe what we have in the ordinances and he wants to push for compliance but he guesses short of revealing the westerly side of the building....that is a positive to vote toward the flexibility on this.

Mr. David said that initially he was probably not in favor of approving the application even in its revised format until listening to my colleagues discuss and ultimately change his opinion.

Mr. Picerno said he is in total agreement of what Mr. David just said however he is very happy that we have discussed this with Mr. Grimaldi and Mr. Pantina who really gave us that exercise going back and forth because this was very close to all of us feeling the same way...you have a square box, you have a lot...let's get conformed....but given the testimony and everything that the team has brought has shed a different light....and picking up on the ADA parking is very important however we are at a different state now so right now he is very happy to hear everyone's input because that enabled us to make a good decision.

Mr. O'Brien read the conditions: add windows to the east wall, add a red stripe to the corner treatment, remove the sign illumination within the entry, keep the gooseneck lamp and add the under hang lamps, leave the ADA as it is, specify warehousing light manufacturing office and loading and define those areas in the resolution which are also defined in the architectural and no overnight parking.

Motion was made by Mr. David, seconded by Mr. Mazzeo, to approve Application #366 & 5-18. Roll Call: Mr. Schielke vote yes, Mr. Picerno voted yes, Mr. David voted yes, Mr. Grimaldi voted yes, Mr. Pantina voted yes, Mr. Callelo voted yes, Mr. Mazzeo voted yes and Mr. Jones voted yes.

Comments for the Good of the Board

None.

REGULAR MEETING OF THE PLANNING BOARD OF THE BOROUGH OF KENILWORTH HELD ON THURSDAY EVENING, MAY 10, 2018. CHAIRMAN PICERNO PRESIDED.

Open Meeting to the Public

Motion made by Mr. David, seconded by Mr. Schielke to open the meeting to the public. All in favor.

No one wished to speak.

Close Meeting to the Public

Motion made by Mr. David, seconded by Mr. Grimaldi to open the meeting to the public. All in favor.

Adjournment

Motion to adjourn was made by Mr. David, seconded by Mr. Pantina. All in favor.

Respectfully submitted by:
Kathleen Moschitta
Recording Secretary