

**ROCKLEIGH PLANNING BOARD
BOROUGH OF ROCKLEIGH, NEW JERSEY
PUBLIC MEETING
December 8, 2020***

Meeting conducted remotely via Zoom electronic/video conferencing

Meeting called to order by Chairman Peter Layne at 8:12 p.m.

ROLL CALL:

Present: Secretary Theodore C. Brack, Chairman
Peter Layne, Vice Chairman Paul Van
Dyke, Mayor Robert Schaffer, David
Altman, Councilman David Hansen,
Demetrios Venetsanos and Carl Porto

Absent: Stephen Crevani

Also Present via electronic/video
conference call:

Planning Board Counsel Kenneth C.
Dolecki, Esq., and Planning Board
Engineer Gregory Polyniak of Neglia
Engineering Associates

OPENING STATEMENT: An announcement was made that this meeting of the Rockleigh Planning Board is being held in compliance with the Open Public Meetings Act of the State of New Jersey. Adequate Notice of this electronic/video conference Zoom meeting was (a) given in writing to the official newspaper of the Borough of Rockleigh; (b) posted on the front door of the Municipal Building of the Borough of Rockleigh, as well as two (2) additional doors of the Municipal Building of the Borough of Rockleigh; (c) electronically provided by the posting of the Notice on the website of the Borough of Rockleigh – www.rockleighnj.org. Said Notice also provided that pursuant to the Open Public Meetings Act of the State of New Jersey the first portion of the Meeting will constitute a Work Session for the Planning Board and that, upon completion of the Work Session, the meeting of the Planning Board will continue with a Public Hearing portion.

* MINUTES ARE RECORDED VIA THE ZOOM MEETING'S PROGRAM AND CAN BE ACCESSED THROUGH THE OFFICE OF THE BOROUGH CLERK. THE WITHIN MINUTES CONSTITUTES A CONDENSED ABBREVIATED VERSION AND ARE FOR THE BENEFIT OF PLANNING BOARD MEMBERS AS A RECOLLECTION OF PAST EVENTS, AS WELL AS FOR THE PURPOSE OF KEEPING MEMBERS ABSENT FROM A MEETING, CURRENT.

No matters having been scheduled for the Work Session of the Planning Board meeting, a Motion was made by Chairman Peter Layne and seconded by Secretary Theodore C. Brack to close the Work Session of the meeting and move the meeting into Public Session. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

The following consists of the Minutes of the Public Session of the Planning Board Meeting:

MATTER CONSIDERED: The first matter on the Public Session agenda was Discussion, consideration and possible action to be taken by the Planning Board with regard to standard procedures and requirements for public comment made during a remote Planning Board meeting, along with those written comments submitted in advance of the meeting.

Counsel for the Planning Board Kenneth C. Dolecki, Esq., advised the Planning Board that based upon the Governor declared emergency, further revisions to the New Jersey Administrative code and further revisions to the regulations promulgated by the Director of Division of Local Government Services, additional requirements governing remote Planning Board meeting were necessary.

The Regulations now require the Planning Board to adopt, by Resolution, Standard Procedures and Requirements for Both Public Comment Made During A Remote Meeting, as well as Written Comments or Questions Submitted to the Planning Board in advance of a Remote Planning Board Meeting.

Counsel further noted that while, to a certain extent, the Planning Board already has procedures for comments during a remote public Planning Board meeting, they need to be expanded to comply with current regulations. Furthermore, current Regulations also require the Planning Board to address comments or questions submitted in advance of a remote public Planning Board meeting.

Counsel for the Planning Board prepared in advance of the meeting, and forwarded to all Planning Board members in advance of the meeting, proposed Standard Procedures and Requirements for Both Public Comment Made During A Remote Meeting, as well as Written Comments or Questions Submitted to the Planning Board in advance of a Remote Planning Board Meeting, together with a proposed Resolution reflecting action that may be taken by the Planning Board in adopting Planning Board Standard Procedures.

After a brief discussion, a Motion was made by Chairman Peter Layne and seconded by Vice Chairman Paul Van Dyke to adopt the proposed Standard Procedures and Requirements for Both Public Comments Made During A Remote Meeting, as well as Written Comments or Questions Submitted to the Planning Board in advance of a Remote Planning Board Meeting, as prepared and submitted by Planning Board Counsel. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke,

Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

Thereafter, a Motion was made by Chairman Peter Layne and seconded by Secretary Theodore C. Brack to adopt the proposed Resolution memorializing the action just taken by the Planning Board in adopting Standard Procedures and Requirements in the form presented by Planning Board Counsel in advance of this evening's meeting. Those voting in favor to adopt said Resolution were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

MATTERS CONSIDERED:

- A. **PROPOSED ORDINANCE REVIEW:** Discussion and consideration by the Planning Board of proposed Municipal Ordinance #2020-7 to amend Chapter XXXIV of the Code of the Borough of Rockleigh entitled "Zoning", Article II, "Zoning Boundaries", Section 34-3, "Zoning Map Established", Subsection 34-3.1, amending the Zoning Map so as to provide that Block 102, Lots 3 and 4, heretofore located in the "A" Residential Zone District and the "HF" Historic Fringe Zone District, shall be rezoned to the "C Zone", Light Industry Zone.
- B. **PROPOSED ORDINANCE REVIEW:** Discussion and consideration by the Planning Board of proposed Municipal Ordinance #2020-8 to amend Chapter XXXIV of the Code of the Borough of Rockleigh entitled "Zoning" to include in Section 34-10, C Zone – Light Industry, Subsection 34-10.1, and additional permitted uses for fitness centers and personal training facilities.

Notwithstanding that the Agenda provided that proposed Ordinance #2020-7 and proposed Ordinance #2020-8 were separate items to be addressed by the Planning Board, due to the interrelated nature of both proposed Ordinances, the Planning Board determined to address both Ordinances simultaneously in the same discussion.

Both proposed Ordinance #2020-7 and proposed Ordinance #2020-8 were introduced by the Governing Body of the Borough of Rockleigh at its December 7, 2020, meeting. Pursuant to the requirements of the Municipal Land Use Law, both Ordinances were referred to the Planning Board for its review and recommendation to the Mayor and Council.

The Honorable Robert Schaffer, Mayor of the Borough of Rockleigh, provided information to the Planning Board with regard to the Governing Body's position relative to both Ordinances and, in particular, the property identified as the DPW property.

Mayor Schaffer indicated that the Governing Body has been approached by individuals seeking to operate a fitness center and personal training facility in the former DPW building, which proposal is acceptable to the Governing Body and which proposal would provide

approximately \$37,000.00 of income per year to the Borough. This would require the rezoning of that parcel of property to be incorporated into the "C" Light Industry Zone, as well as amending the section of the Zoning Ordinances listing the permitted uses in the "C" Light Industry Zone to also include a fitness center/personal training facility as such a permitted use.

Vice Chairman Paul Van Dyke expressed a concern as to the use of the exterior of the property. Vice Chairman Van Dyke indicated that he would not be comfortable with a fitness center/personal training facility using the exterior of the property for its training/physical fitness activities as the same may result in significant activity and noise disrupting the adjacent residential area.

Although it was noted that the exterior of that parcel of property is limited to a parking area, Vice Chairman Van Dyke further noted that, as is done at a similar facility in the Borough of Norwood, the facility can block off the parking area from motor vehicle usage and use the exterior parking area for such outdoor activities.

The Planning Board determined that it should give consideration to suggesting to the Governing Body that the use of the former DPW property be limited to interior use only and that the exterior of the property be used solely for the parking of motor vehicles. However, to reflect such a proposed condition in its recommendation to the Governing Body may require the Governing Body to reintroduce Ordinance #2020-8, thus potentially delaying the adoption of the Ordinance at a Special Meeting scheduled for December 21, 2020, specifically scheduled for the purpose of enacting both Ordinance #2020-7 and Ordinance #2020-8. This, in turn, would result in a delay in the potential entry into a Lease Agreement, which would be a favorable circumstance for the Borough.

After further discussion, it was determined that the Planning Board should recommend the adoption of both Ordinance #2020-7 and Ordinance #2020-8 in its present form but that, informally, through correspondence to the Governing Body, the Planning Board should set forth its concern and request that the Governing Body give consideration to placing restrictions in any Lease Agreement that it may enter into for the former DPW property, limiting the use of the property as a personal training facility to the interior of the property and to limit the use of the exterior of the property to the parking of motor vehicles only.

All of the Planning Board members being in agreement with this proposed procedure, a Motion was made by Chairman Peter Layne and seconded by David Altman to approve Ordinance #2020-7 and recommend to the Mayor and Council that the Governing Body adopt the same. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

Again, in anticipation that favorable action may be taken by the Planning Board relative to Ordinance #2020-7, Counsel for the Planning Board took the liberty of preparing a proposed

form of Resolution and forwarded the same to the Planning Board members in advance of the meeting, approving Ordinance #2020-7 and recommending to the Governing Body that the Governing Body adopt the same.

After a brief review of the proposed Resolution, a Motion was made by Councilman David Hansen and seconded by Vice Chairman Paul Van Dyke to adopt the Resolution regarding Ordinance #2020-7 memorializing the action just taken by the Planning Board. Those voting in favor to adopt said Resolution were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

Thereafter, a Motion was made by Chairman Peter Layne and seconded by David Altman to approve Ordinance #2020-8 and recommend to the Mayor and Council that the Governing Body adopt the same. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

This Motion, however, was in conjunction with the Planning Board's determination that Counsel for the Planning Board should communicate to the Governing Body the Planning Board's concern about the use of the exterior of the property and the conditions that the Planning Board would request the Governing Body place into any lease agreement for the DPW property to be used as a fitness center/personal training facility.

Again, in anticipation that favorable action may be taken by the Planning Board relative to Ordinance #2020-8, Counsel for the Planning Board took the liberty of preparing a proposed form of Resolution and forwarded the same to the Planning Board members in advance of the meeting, approving Ordinance #2020-8 and recommending to the Governing Body that the Governing Body adopt the same.

After a brief review of the proposed Resolution, a Motion was made by Chairman Peter Layne and seconded by David Altman to adopt the Resolution regarding Ordinance #2020-8 memorializing the action just taken by the Planning Board. Those voting in favor to adopt said Resolution were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

MATTER CONSIDERED: The Municipal Land Use Law requires a review of decisions and applications for Variances and preparation and adoption by Resolution of a report on its findings on Zoning Ordinance provisions that were the subject of Variance requests and final determination of the Planning Board by Resolutions adopted in 2020, as well as the Planning Board's recommendations to the Governing Body for Zoning Ordinance Amendments or revisions, if any. Each calendar year's decisions by the Planning Board are to be reviewed by

the Planning Board with an appropriate report submitted to the Governing Body for each calendar year.

Prepared and provided to each Planning Board Member by counsel for the Planning Board, in advance of this evening's meeting, was a summary of all Applications for Variances and all other relief requested for calendar year 2020 for each Planning Board Member's prior review. In addition to the summary, counsel also submitted to the Planning Board a chronological listing of all Applications upon which the Planning Board adopted a Resolution in calendar year 2020, whether for a Variance or other relief.

In anticipation that action regarding this matter may be taken by the Planning Board at this evening's meeting, Counsel for the Planning Board also prepared a proposed Resolution, also for the Planning Board's prior review, in the event the Planning Board determined to adopt the report as prepared. It was noted that all Planning Board members had a copy of the proposed Resolution also in advance of this evening's meeting for each individual member's review and consideration.

Counsel further advised the Planning Board with his correspondence to the Planning Board members of November 11, 2020, that he prepared the report and the proposed Resolution on an assumption that the Planning Board would determine that there would be no need for any recommendation to the Governing Body that there be an amendment or a revision to the Zoning Ordinances of the Borough of Rockleigh as a result of the 2020 Applications.

However, counsel further advised the Planning Board in his November 11, 2020, correspondence to the Planning Board members, that the report and Resolution were prepared solely as a form from which the Planning Board may start. If the Planning Board is of the position and is comfortable with the form of the within Resolution memorializing its position, the Planning Board can consider adopting the enclosed memorializing Resolution.

Alternatively, if the Planning Board is of the position that any one or more of the Variance relief granted on the Applications would warrant a recommendation to the Governing Body that there be an Amendment to the Zoning Ordinances, the proposed report and Resolution would not be appropriate and, based upon discussion of the Planning Board members and its determination, another report and Resolution appropriate and consistent with the Planning Board's findings, would then be prepared.

Lastly, counsel advised the Planning Board that it should not interpret his preparation of the report and the proposed form of Resolution as a recommendation to the Planning Board that it should not consider any appropriate Zoning Ordinance amendments and that the decision-making process with regard to this issue is solely in the discretion of the Planning Board only and it is the Planning Board's determination that will prevail.

After discussion, a Motion was made by Chairman Peter Layne and seconded by Carl Porto to adopt the report as prepared. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert

Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

A Motion was then made by Chairman Peter Layne and seconded by David Altman to approve the form of Resolution memorializing the action just taken by the Planning Board with regard to the 2020 report. Those voting in favor to adopt said Resolution were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

MATTER CONSIDERED: A proposed meeting schedule for the Planning Board for calendar year 2021 was provided to all Planning Board members in advance of this evening's meeting. The same is incorporated herein by reference as if fully set forth herein at length.

After review and discussion, a Motion was made by Chairman Peter Layne and seconded by Secretary Theodore C. Brack to adopt the meeting calendar for calendar year 2021 as proposed. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, David Altman, Councilman David Hansen, Demetrios Venetsanos and Carl Porto. Those opposed: None. Those abstaining: None.

The Minutes of the September 28, 2020, Planning Board regular monthly meeting were reviewed by the Planning Board members.

A Motion was made by Chairman Peter Layne and seconded by Secretary Theodore C. Brack to approve the Minutes of the September 28, 2020, Planning Board meeting, as prepared. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer and David Altman. Those opposed: None. Those abstaining: Councilman David Hansen, Demetrios Venetsanos and Carl Porto.

The following statements for payment by the Planning Board for services rendered to the Planning Board were reviewed by the Planning Board members:

- A. Services rendered by Neglia Engineering Associates, Planning Board Engineer, with regard to the Planning Board meeting of September 28, 2020 - \$146.25;
- B. Services rendered by Kenneth C. Dolecki, Esq., Planning Board Attorney, with regard to General Planning Board Services - \$924.00;
- C. Services rendered by Kenneth C. Dolecki, Esq., Planning Board Attorney, with regard to the Planning Board of the Borough of Rockleigh advs. Robert Ferretti, Superior Court of New Jersey litigation - \$176.00;
- D. Services rendered by Kenneth C. Dolecki, Esq., Planning Board Attorney, with regard to the 2020 Annual Variance Review - \$441.00;

- E. Services rendered by Kenneth C. Dolecki, Esq., Planning Board Attorney, with regard to Borough Ordinances - \$462.00;

A Motion was made by Chairman Peter Layne and seconded by Carl Porto to approve payment of all vouchers as submitted. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, Demetrios Venetsanos, David Altman and Councilman David Hansen. Those opposed: None. Those abstaining: None.

Chairman Peter Layne then announced a minor change in the agenda due to the inability of the Planning Board to leave the remote Planning Board meeting, enter into a separate remote Planning Board meeting for Executive Session and thereafter return to the original public Planning Board meeting, it being understood that this procedure could not occur and that once the Planning Board left the Open Public Meeting to go into Executive Session, it would be unable to return to the Open Public Meeting.

Accordingly, the Public Session open to the public and the Executive Session will be reversed. Once the Public Session is completed, the Planning Board will adjourn the public meeting and enter into the Executive Session, not to return to the Planning Board meeting.

A Motion was then made by Chairman Peter Layne and seconded by Vice Chairman Paul Van Dyke to open the meeting to the public for any questions or comments any member of the public who was participating remotely via video conference or telephone conference had for the Planning Board regarding any Planning Board business. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, Demetrios Venetsanos, David Altman and Councilman David Hansen. Those opposed: None. Those abstaining: None.

Robert Ferretti addressed the Planning Board with regard to the DPW property, inquiring as to whether or not the Governing Body considered selling the property rather than leasing it and whether the condition of the property was such that no major repairs by the Borough would be required.

These inquiries were responded to by the Honorable Robert Schaffer, Mayor, advising Mr. Ferretti and the Planning Board that the property was presently vacant after being rented for the past 5-6 years, with the current tenant presently moving out. In addition, the Borough Council determined that the Borough should not sell the property but should retain the property as the possibility exists that the town may wish to use the property for municipal use at a later point in time. \$37,000.00 of revenue per year will be received by the Borough from the proposed tenant, being a triple net lease. Lastly, Mayor Schaffer advised that the HVAC and the roof have already been addressed and that all major repairs/replacements have been accomplished and that the building is in good condition.

It was then noted for the record that there were no further members of the public who wished to be heard or that had any comments or questions of the Planning Board. A Motion was

then made by Chairman Peter Layne and seconded by Mayor Robert Schaffer to close the meeting to the public. Those voting in favor of the Motion were: Secretary Theodore C. Brack, Chairman Peter Layne, Vice Chairman Paul Van Dyke, Mayor Robert Schaffer, Demetrios Venetsanos, David Altman and Councilman David Hansen. Those opposed: None. Those abstaining: None.

At this point in time, Chairman Layne took the opportunity to provide a statement on the record with regard to his position as Chairman of the Rockleigh Planning Board.

Chairman Layne indicated that for the past ten (10) years, he has been Chairman of the Planning Board. However, at this time, he wished to advise the Planning Board that he will not be seeking, nor will he accept, a nomination as Chairman of the Planning Board, but will remain as an active Class IV member of the Planning Board.

He also thanked Mayor Schaffer and the Planning Board members for their past endorsements and assistance with all Planning Board matters.

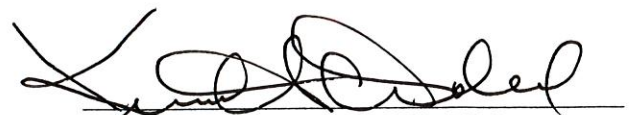
Lastly, Chairman Layne also thanked the Planning Board's Professionals, Ken Dolecki and Greg Polyniak for their help, guidance, exceptional expertise and patience during his time as Chairman of the Planning Board.

There being no further business, on Motion duly made, seconded and unanimously carried, the Meeting was adjourned at 9:05 P.M.

Simultaneously therewith, a Motion was made, seconded and unanimously carried to have the Planning Board members leave the public remote Planning Board Zoom meeting and enter into a second Zoom meeting for the purpose of conducting an Executive Session.

It was noted for the record that the time period after which the contents of the Executive Session could be made available would be upon completion of all litigation.

Respectfully submitted,



KENNETH C. DOLECKI, ESQ.
Attorney for Rockleigh Planning Board