

**TOWNSHIP OF CEDAR GROVE
ESSEX COUNTY NEW JERSEY**

COUNCIL STAFF MEETING

**MINUTES
7:00 P.M.**

MAY 16, 2016

1. ROLL CALL – OPEN PUBLIC MEETING STATEMENT BY MAYOR

Mayor Chiusolo called the meeting to order at 7:05 p.m. and made the required announcement concerning the Open Public Meetings Act as follows: Adequate notice of this meeting was duly provided to the Verona-Cedar Grove Times and the Star Ledger, filed with the Township Clerk, and posted on the public bulletin board in the Municipal Building's lobby in accordance with the Open Public Meetings Act.

Present: Councilman Kumburis, Longo, Maffucci, Deputy Mayor Tanella, Mayor Chiusolo
Also Present: Township Attorney Zielinski, Township Clerk Stutz

2. EXTRAORDINARY BUSINESS

a) Hearing of Appeal of Zoning Board Decision – Soccer Dome, Inc. Cal. #2588

Mayor Chiusolo explained

Mayor Chiusolo explained the procedure for the hearing; the appellants' attorney, Greg Mascera, appellant Chris Beaumont will address the Governing Body, followed by the applicant's attorney. Mayor Chiusolo further explained that the governing body is in receipt of transcripts of all Zoning Board hearings for the application, attorney briefs relevant to the appeal, as well as documentation related to the second appellant's appeal. Mayor Chiusolo stated that the governing body is required to review the record of the Zoning Board hearings that led to its approval of the Soccer Dome's application for a (d) variance only. Mayor Chiusolo advised that the Governing Body may reverse, remand, or affirm the final decision of the Zoning Board.

Attorney Gregory Mascera of the firm Bannon, Rawding, McDonald & Mascera, P.A., represented appellants Mr. Antal Zeleszko, Jr. and Mr. Richard Kroll. Attorney Mascera stated that the Zoning Board should not have granted d(1) variance relief because the applicant failed to meet the burden of proof required to do so. Attorney Mascera provided a lengthy explanation of the criteria necessary to grant a d(1) variance and for which the applicant must provide testimony to meet the substantial burden of proof necessary to grant relief. Attorney Mascera further explained that the zoning board did not conduct the required analysis set forth by the Township's Planner to enable zoning board to grant variance. Attorney Mascera referred to NJ Supreme Court Case of Medici v. BPR which illustrates the guiding principles that a zoning board should follow when considering a d(1) variance. Attorney Mascera described how applicant's testimony did not meet the burden of proof required to grant the d(1) variance. Following a summation, Attorney Mascera requested the governing body to reverse the Zoning Board's approval.

Chris Beaumont of Anderson Pkwy., second appellant, stated that the application should not have been approved because of the composition of the artificial turf, and new studies that have just been released. Mayor Chiusolo advised Mr. Beaumont that the governing body was not

permitted under land use law to receive or consider new information pertaining to the application. Mr. Beaumont continued to present issues of concern and was critical of the zone change made by the governing body to permit recreation facilities in the M-1 and M-2 zone.

Attorney Michael Sullivan, representing the applicant, Soccer Domain, Inc. Attorney Sullivan stated that the application is unique as the proposed soccer dome is a permitted use in the M-2 zone. The need for the d(1) variance is to permit a second principal use on a single lot, rather than to allow a non-permitted use. Attorney Sullivan maintained that the applicant's testimony provided the special reasons to meet the necessary positive criteria required to grant the d(1) variance. Attorney Sullivan further stated that the applicant provided extensive testimony to address and resolve negative criteria of the application. Attorney Sullivan concluded that the Zoning Board's decision to approve the application was justified.

Following questions posed by Deputy Mayor Tanella and Councilman Maffucci, Deputy Mayor Tanella moved to reverse the Zoning Board's approval of the d(1) variance, seconded by Councilman Maffucci. Deputy Mayor Tanella read a prepared statement and cited the following reasons that the variance should have been denied. Deputy Mayor Tanella stated that the variance relief

- Causes substantial detriment to the public good;
- Substantially impairs the purpose of the Township's zoning ordinance;
- Does not encourage the most appropriate use of the land

The motion to reverse the Zoning Board's decision passed by the following vote:
AYE: Councilman Kumburis, Longo, Maffucci, Deputy Mayor Tanella, Mayor Chiusolo
NO: None

3. TOWNSHIP MANAGER – No report

4. TOWNSHIP ATTORNEY – No report

5. TOWNSHIP CLERK – No report

6. COUNCIL REPORTS - No reports

7. PUBLIC COMMENT

Mayor Chiusolo opened this portion of the meeting to anyone wishing to be heard. There being no one present wishing to be heard, Mayor Chiusolo closed this portion of the meeting.

8. ADJOURNMENT

Councilman Longo moved adjournment of the meeting, seconded by Deputy Mayor Tanella, and passed unanimously. The staff council meeting adjourned at 8:15 p.m.