Chairman Nargiso brought the regular meeting of the Butler Planning Board for May 17, 2018 to order followed by a Pledge to the Flag. Chairman stated that this meeting is being held in conformance with the Sunshine Law Requirements having been duly advertised and posted at Borough Hall.

**ROLL CALL:**

Present: Donnelly, Veneziano, Hauck, Brown, Grygus, Vath, Nargiso

Absent: Roche (excused), Alviene (excused), Finelli (excused), Fox (excused)

Moment of Silence for former Mayor and Councilman Joseph Heywang

**APPROVAL OF VOUCHERS:**

Motion to approve as submitted

Motion: Vath

Second: Brown

Voted Aye: Donnelly, Veneziano, Hauck, Brown, Grygus, Vath, Nargiso

Voted Nay: None

**BOARD DISCUSSION** - Stormwater Permit Deadline for Training and Point Changes- all training must be completed by June 30, 2018 (letter of instructions given to all board members)

**APPLICATIONS TO BE HEARD:**

18-191V-A 214 Main Street, LLC

 214 Main Street

 Block 23 Lot 16

Steven Schepis Esq. – appearing on behalf of the applicant Dan Katzevich of 214 Main Street,

LLC

Mr. Schepis stated that this application is a fresh start, everything that is being presented stands on its own.

Mr. Schepis stated is here before the board representing 214 Main LLC property owner and applicant. The applicant had been before the board on a similar application yet different; the applicant is seeking to rehab 4 of the 8 apartments that are situated in the building. The building is located in the CBD Zone, it is a mixed use building there is a commercial laundromat on the first floor approximately 2,800 S.F. and they 2 levels of residential apartments above and a vacant 4th floor space. The applicant seeks to expand the 3rd floor residential units into the vacant attic space above.

The initial application that was submitted to the board back in 2017 which was denied by the board, sought to transform those 3rd floor apartments from one bedroom to two bedrooms. The board denied that, it was a split vote and since that time the project has been reconsidered and is inclined as the application reflects to leave those 4 apartments up on the third floor as one bedroom and bring the overall square footage into compliance with your ordinance.

Further stated that the memo received by the Zoning Office regarding this application will be adhered to comply with the same with the recommendations of the planner.

The applicant seeks a D2 Variance to permit an expansion of a pre-exiting nonconforming use, as part of this application the documents that were submitted to the board during the last application are the same. This is a mixed use building that was there prior to the first zoning ordinance.

Improvements that are being proposed are similar to what was proposed during the last application.

* Internal modifications of the units on the 3rd floor
* Proposed fire escapes for fire safety
* Building façade modifications
* Limitations of occupancy
* Square footage of bedrooms

The architect is not available but his plans have been submitted.

Sandra Woodard – owner/operator of laundromat at 214 Main

Street stated the following:

* Mr. Katzevich recently renovated the apartments
* No employees, runs and operates the laundromat herself
* Customers park on the side street but further stated that most walk to her facility
* Parking in the back lot is reserved for the residential tenants

Public portion opened by motion

Richard Mohl – 7 Manning Ave – Asked if all parking is on Manning Avenue by the customers that are using the laundromat

Public portion closed by motion

Dan Katzevich – 214 Main Street

Mr. Katzevich testified to the following

* Owner of the 214 Main Butler LLC
* Became owner approximately 2 years ago
* Conditions of the building when first purchased
* What has been done to the building since it has been purchased
* What is being proposed
* Recycling and trash removal

Board questioned the witness on various aspects of his testimony

Public portion opened by motion

Paul Dolengo – owner of 210 Main Street

Questions regarding the retaining wall

Richard Mohl - 7 Manning Avenue

Questioning the number of apartments

Public portion closed by motion

John Desch – Traffic Engineer – 28 Newark Pompton Turnpike, Riverdale, NJ

Accepted as an expert witness by motion

Mr. Desch testified to the following:

* Description of property
* Parking requirements associated with the proposed use
* Parking analysis
* Number of parking spaces required
* Parking utilization
* Existing parking lot
* Proposed parking lot
* Parking needs associated with Manning Avenue

The board questioned the witness on various aspects of his testimony

Public portion opened by motion

Public portion closed by motion

Kenneth Ochab – Community Planning and Development Consultants

Accepted as an expert witness by motion

Mr. Ochab testified to the following – Report dated May 8, 2018

* Site Description
* Previous proposed project
* New proposed project
* Surrounding area
* Zoning
* Variance Discussion – D variance
* Expansion of the Non-conforming use
* Floor area ratio
* RSIS – Deminimis exception for parking
* Negative criteria
* Meets the purpose of the NJ Municipal Land Use Law

Board questioned the witness on various aspects of his testimony

Public portion opened by motion

Richard Mohl questioned the number of parking spaces and number of apartment

Public portion closed for questions

Public portion opened by motion for comments

Richard Mohl – 7 Manning Ave

Mr. Mohl stated his concerns include

* Fire escape issues
* 4 story high apartments
* Parking overflow
* Retaining wall repairs

Public Portion closed by motion

Motion to approve with the following conditions:

* All representations of the applicant or its attorney are adopted and made an express part of this application
* The parking lot shall be reduced to nine parking spaces as no handicap space is required pursuant to the Borough of Butler Building Inspector
* The project shall be built in strict compliance with the documents submitted. No changes may be approved by any other Borough officer or agency
* The façade and streetscape shall be improved using the River Walk Redevelopment scheme as a guide. The applicants submission for these improvements must be reviewed by the boards planner and approved prior to the issuance of the Certificate of Occupancy
* Revised plans conforming to the testimony and elimination of all inconsistencies are to be submitted and reviewed by the Board’s Engineer.
* The fire escapes on the front and rear of the building shall be approved by the municipality prior to being built if require
* In the event that the first floor commercial use changes from a laundromat, there shall be a zoning application made by the applicant which shall specifically address the waste removal for the new use, among all other Borough requirements
* The leases shall limit occupancy to no more than three persons in accordance with Borough Ordinances. All leases shall name the occupants on the lease. The lease shall limit parking on the site to one vehicle per apartment, thereby limiting tenant parking to eight spaces. The owner of the building shall submit a copy of all leases upon execution to the Borough Zoning Officer. The leases shall permit zoning inspections once per year to the extent permitted by law.
* The parking lot shall have signage indicating parking for tenant’s only to be approved by Board’s Engineer
* All other municipal ordinances shall remain in full force and effect on the site

Motion: Hauck

Second: Grygus

Plans must be modified to reflect changes and completed prior to the next meeting of June 21, 2018

Board Discussion:

Mr. Brown stated that the submitted application has several inconsistencies that provide an uncertain depiction of exactly what would be approved. The submitted architectural drawings are not consistent with the written dialog provided or vice versa. The application depicts a combination of items that must be accomplished by the Butler Code regardless of this application additional items that are voluntarily being accomplished outside this application an those items that require board approval to be accomplished. The provided application portrays each set of items as support for each other; the expansion of the prohibited use, expansion of the maximum number of stories and the further expansion of an already expanded maximum floor area ratio are the only items before this board. The applicant does not meet the requirements of Medici the positive criteria with proofs have has not been determined. There is no proof of the need of such expansion.

No enhanced qualities of proof that must be offered that the variances sought are not inconsistent with the intent and purpose of the Butler Master and Zoning Ordinance. It was not found that the granting of these variances served any purpose of zoning; there was no determination of a possible undue hardship or special reason to be considered by the board.

Voted Aye: Donnelly, Veneziano, Hauck, Grygus, Vath, Nargiso

Voted Nay: Brown

**RESOLUTIONS:**

18-197V Fernando Echerverria

 85 Sunset Avenue

 Block 103 Lot 6

Motion to approve as submitted

Motion: Grygus

Second: Donnelly

Voted Aye: Donnelly, Veneziano, Hauck, Brown, Grygus, Vath, Nargiso

Voted Nay: None

Motion to Adjourn:

Motion: Grygus

Second: Hauck

All Ayes

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 Chairman – Planning Board

ATTEST: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Secretary – Planning Board

 ADOPTED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_