

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
August 8, 2018

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:31 PM.

OPEN MEETING STATEMENT

Chairman Breslin read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 11, 2017 and was electronically mailed to all those people who have requested individual notice."

"The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM."

ROLL CALL:

Members Present: Breslin, Korn, Lane, Mastrangelo, Tancredi, Zaidel
Members Late: NONE
Members Absent: Genirs, Kleinert, Pozner
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

On motion by Ms. Mastrangelo, seconded by Mr. Zaidel, all in favor and carried, the absences of Ms. Genirs, Ms. Kleinert and Ms. Pozner were excused.

APPROVAL OF MINUTES

July 12 2018 - Special Session - Ms. Mastrangelo moved approval of the minutes as drafted. Mr. Zaidel seconded.

Roll Call:

Aye: Korn, Lane, Mastrangelo, Zaidel
Nay: NONE
Ineligible: Breslin, Tancredi

Motion carried.

APPROVAL OF RESOLUTIONS

Resolution #ZB18-015 - DePaolis; Block 1502, Lot 1; 82 North Finley Avenue; Bulk Variances (approved).

Ms. Mastrangelo moved approval of the resolution as drafted. Mr. Zaidel seconded.

Roll Call:

Aye: Korn, Lane, Mastrangelo, Zaidel
Nay: NONE
Ineligible: Breslin, Tancredi

Motion carried.

Resolution #ZB18-012 - Schutz-Joshi; Block 7803, Lot 12; 63 Lurline Drive; Bulk Variances (approved).

Mr. Zaidel moved approval of the resolution as drafted. Mr. Lane seconded.

Roll Call:

Aye: Korn, Lane, Mastrangelo, Zaidel
Nay: NONE
Ineligible: Breslin, Tancredi

Motion carried.

Resolution #ZB18-018 - Cook; Block 5602, Lot 3; 34 Gerard Avenue; Bulk Variances (approved).

Mr. Lane moved approval of the resolution as drafted. Ms. Mastrangelo seconded.

Roll Call:

Aye: Korn, Lane, Mastrangelo, Zaidel
Nay: NONE
Ineligible: Breslin, Tancredi

Motion carried.

Resolution #ZB18-016 - Tiny Turtle Academy c/o KRE Group; Block 10001 Lots 4 & 5; 574 Allen Road; Bulk Variance (approved).

Mr. Zaidel moved approval of the resolution as drafted. Mr. Lane seconded.

Roll Call:

Aye: Korn, Lane, Mastrangelo, Zaidel
Nay: NONE
Ineligible: Breslin, Tancredi

Motion carried.

PUBLIC HEARING

J. Nan Realty Co., LLC; #ZB18-011; Block 3603, Lot 1; 18 Columbia Road; Preliminary/Final Site Plan Approval, "D-1" Use Variance, "D-5" Density Variance, Bulk Variances, Exceptions.

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
David E. Fantina, PE, Engineer for the Applicant
James T. Kyle, PP, AICP, Planner for the Applicant
John W. Utz, Jr., Managing Member, J. Nan Realty LLC, Applicant

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, stated that he was present on behalf of the applicant and then gave a brief overview of the subject property. Noting that it was the only undeveloped property on Columbia Road, he explained that the side of the street on which the subject property was located was zoned R-4 (Residential Zone) with one conforming residential dwelling and a pre-existing nonconforming four (4) family residence. The other side of the street was zoned B-2 (Neighborhood Business Zone) with two (2) businesses and one (1) nonconforming residence. He noted that the street itself was narrow.

Mr. Zelle then described the proposed project as a four (4) family dwelling with two (2) two-bedroom apartments and two (2) single-bedroom apartments, adding that the applicant proposed to dedicate the first floor single-bedroom unit as a moderate income or possibly low income housing unit. He pointed out that the location was especially well suited for such a unit since the occupants could walk to transportation areas and shopping. The subject property was significantly constrained by wetlands and the project required bulk variances, exceptions, a "D-1" Use Variance and a "D-5" Density Variance. Mr. Zelle noted that in 2017 the applicant filed an application to construct a single family dwelling on this lot which was withdrawn. In addition to the relief sought in this application, the applicant was requesting relief from the additional Right-of-Way (ROW) dedication which, if

granted, would resolve many of the issues noted in both Mr. Schley's memo (August 1, 2018) and in Mr. Quinn's memo (August 6, 2018).

Mr. Zelley commented that this was a unique property and that although it would be challenging to develop, the project would be a benefit to the community.

Mr. Warner advised that the inclusion of an affordable housing unit would not deem the proposed project inherently beneficial and Mr. Zelley concurred.

Ms. Mastrangelo and Mr. Zaidel stated that they had visited the site.

Mr. Fantina, Mr. Kyle, Mr. Utz, Mr. Schley and Mr. Quinn were duly sworn by Mr. Warner.

John W. Utz, Jr. residing at 65 Dayton Crescent, Bernardsville, NJ was introduced to the Board as a Managing Member of *J. Nan Realty LLC*, the Applicant. He testified that he was a lifelong resident and that he has been a builder in the area for over 40 years. He had acquired the subject property in 2005 and then gave a brief history of the other properties on Columbia Road along with a description of the proposed project. Noting that the proposed "COAH" unit had to be handicapped accessible, Mr. Utz planned to revise the design of the project to eliminate the front steps.

Mr. Utz stipulates to a single ownership/rental form of ownership or a condominium, whichever, if the Board preferred. Mr. Zelley added that a deed restriction could be put in place. Mr. Warner summarized that the applicant was proposing single ownership and management by itself. If there was any change in the form of ownership, it would be subject to the jurisdiction of the Board. The applicant agreed.

Mr. Utz testified that he had spoken to all the neighbors on the street with the exception of Tom Cross and all the feedback had been positive.

Mr. Utz contacted both the Basking Ridge Fire Company and the Liberty Corner Fire Company, neither of which offered any negative feedback. Mr. Schley advised the Board that Andrew Buterbaugh, Township Fire Official, was waiting for input from the fire company and that a formal memo would be forthcoming.

Mr. Zaidel asked the applicant why he was proposing four (4) units as opposed to a conforming single family residence. Mr. Utz replied that the property was unique and did not lend itself to a single family home.

In response to a question as to why one of the two-bedroom units was not considered for the affordable housing dedication, Mr. Utz responded that those units would not be suitable. Mr. Zelley added that the first floor single-bedroom unit was being studied for moderate income housing however, the applicant would consider it if the Board was interested in a low income housing unit. Mr. Warner noted that he was not sure that a single-bedroom unit would meet the requirements. A discussion ensued as to the potential safety issues for disabled pedestrians to navigate from the unit to either Lyons Mall or to the transportation sites.

Ms. Mastrangelo noted that the rear of the building was very close to the wetlands transition area and questioned whether there would be any steps from the rear doors. Responding to her comment that the plans showed no areas for patios or grills, Mr. Zelley advised that if the Board were to grant relief for the ROW, the building could be moved forward to allow more room in the rear. Ms. Mastrangelo also noted that the other multi-family unit on the street looked like a single family dwelling from the front unlike the side-by-side configuration of the proposed building.

Mr. Utz testified that the pictures submitted with the application were taken by Mr. Zelley and represented the area as it existed at the time of the hearing with the exception of the house depicted in picture #10 of 11 which had been totally renovated.

In response to an observation made by Ms. Mastrangelo, Mr. Utz agreed that the offices on the Menza property (Block 3604 Lot 7.02) were not accessed from Columbia Road. Ms. Mastrangelo added that there was a landscape buffer between Columbia and the offices so that the property did not appear to be a part of Columbia.

Referencing the current road work on Columbia Road, Mr. Schley stated that to his knowledge, there were no plans for installation of a cul-de-sac or for widening the road. The current work was related to installation of a waterline.

Hearing no further questions for Mr. Utz from the Board or its professionals, Chairman Breslin opened the meeting to the public for questioning of this witness. Hearing none, he closed this portion of the hearing.

David E. Fantina, PE, having an address of 15 Sunset Drive, Bernardsville, NJ, was accepted by the Board as an expert in the field of engineering.

Mr. Fantina gave a brief overview of the proposed project, the subject property and the zoning requirements. He testified that because of the wetlands and the wetlands transition area, the property had no improvable lot area and no building envelope so regardless of what was built, variances would be required. He opined that relief from the additional ROW dedication should be granted because that additional footage would be of no use to the township since there were no plans to widen the road.

Exhibit A-1, sheet 1 of 4 (engineering plan set by David E. Fantina) last revised 06-06-18, was entered into evidence. Mr. Fantina noted that he had added a "North" arrow to the sheet earlier in the day. In red, he drew the existing 16.5' half-width ROW.

Mr. Fantina testified that there were a total of eight (8) parking spaces proposed. Of those, there was one (1) in each of the two (2) driveways and both of those spaces were partially located within the ROW. Mr. Fantina felt that whether they were designated as parking spaces or not, cars would park there. Several board members expressed concern that, if the building was moved forward, the driveways would be shortened and if larger cars or trucks were to utilize the driveways for parking, they might jut out into the road. A discussion ensued as to how the repositioning of the building would affect driveway parking and door overhangs which also encroached into the ROW.

Mr. Fantina testified that stormwater management provisions were proposed noting that the subject property sloped away from the road. Per Mr. Quinn's request, the applicant stipulated to providing additional testing. Finally, he added that only two (2) trees would be removed.

Mr. Fantina addressed the comments in Mr. Schley's memo dated August 1, 2018 and in Mr. Quinn's memo dated August 6, 2018. There was a discussion concerning lighting requirements for multi-family dwellings which were not shown on any of the plans. Ms. Mastrangelo also expressed concern about the location of the refuse enclosure and the feasibility of the plan to have each tenant handle their own refuse disposal. Mr. Fantina discussed options for the location of utilities.

Mr. Utz stipulated to the use of specific construction materials and neutral colors for the building and also confirmed that there were no plans for roof mounted air-conditioning units.

Finally, Mr. Fantina testified that there were no outdoor recreation facilities because there was no usable space behind the proposed building.

At Mr. Zelle's request, the meeting was recessed at 9:45 PM.

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The meeting was reconvened at 9:56 PM.

Mr. Zelle advised the Board that the applicant wished to return at a later date with revised plans and asked whether the Board would comment now as to whether they were inclined to approve relief for the additional ROW dedication.

Mr. Fantina stipulated to all the comments under his purview in Mr. Schley's memo and in Mr. Quinn's memo.

Hearing no further questions for Mr. Fantina from the Board or its professionals, Chairman Breslin opened the meeting to the public for questioning of this witness. Hearing none, he closed this portion of the hearing.

Mr. Warner advised the Board and the applicant that all the issues discussed that evening had to be addressed because this was a *Final* Site Plan application, noting that if the Board were to grant relief for the additional ROW dedication, it would affect many of those issues. Several of the board members expressed concern over parking both in the driveway and potentially on the street given the narrowness of that street as well as the increase in traffic on such a narrow street. One member spoke in favor of granting the ROW relief.

The application was carried to October 3, 2018 with no further notice required. Mr. Zelley agreed to provide an "Extension of Time for Decision" until November 30, 2018.

COMMENTS FROM MEMBERS OR STAFF

Ms. Kiefer reminded the Board that the Municipal Excess Liability Joint Insurance Fund (MEL) is offering a special policy free of charge to all land use board members to provide further protection for them from personal exposure in land use liability claims. In order to qualify, each board member must participate in an hour long training session which has been tentatively scheduled for September 4, 2018. Final confirmation of that date will be sent out early the following week.

ADJOURN

By unanimous Voice Vote, the meeting was adjourned at 10:28 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Minutes approved as written 09/05/18