

BERNARDS TOWNSHIP

PLANNING BOARD

MINUTES v4
Regular Meeting
February 4, 2020

Chairwoman Piedici called the meeting to order at 7:30 PM.

FLAG SALUTE

OPEN PUBLIC MEETING STATEMENT

Chairwoman Piedici read the following open meeting and procedural statement:

"In accordance with the requirements of the Open Public Meetings Law of 1975, notice of this regular meeting of the Planning Board of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, NJ; was sent to the Bernardsville News, Whippany, NJ, and to the Courier News, Bridgewater, NJ, on January 8, 2020; and was electronically mailed to those people who have requested individual notice.

The following procedure has been adopted by the Bernards Township Planning Board. 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: Asay, Crane, Damurjian, Esposito, Harris, McNally, Manduke, Piedici, Zaidel
Members Absent: Hurley, Mastrangelo
Members Late: McNally (7:42 PM)
Also Present: Board Attorney, Jonathan E. Drill, Esq.; Township Planner, David Schley, PP, AICP;
Board Planner, David Banisch, PP, AICP (7:38 PM); Board Secretary, Cyndi Kiefer

Moved by Mr. Crane, seconded by Committeewoman Harris, all in favor and carried, that the absences of Ms. Mastrangelo and Mr. Hurley be excused.

APPROVAL OF MINUTES

January 7, 2020 - Regular and Reorganization Session - On motion made by Ms. Asay and seconded by Ms. Manduke, all eligible in favor and carried, the minutes were adopted as drafted. Abstentions: Damurjian, McNally

APPROVAL OF MINUTES

January 21, 2020 – Regular Session - On motion made by Ms. Manduke and seconded by Committeewoman Harris, all eligible in favor and carried, the minutes were adopted as drafted. Abstentions: Crane, Zaidel

APPROVAL OF MINUTES

January 21, 2020 – Closed Session - On motion made by Ms. Asay and seconded by Committeeman Esposito, all eligible in favor and carried, the minutes were adopted as drafted. Abstentions: Crane, Zaidel

Mr. Banisch arrived at 7:38 PM.

APPROVAL OF RESOLUTION

Resolution Authorizing the Release of 2019 Closed Session Minutes – Chairwoman Piedici read the resolution into the record. Moved by Ms. Asay and seconded by Ms. Manduke to approve the release of those 2019 Closed Session Minutes listed in the resolution.

Roll call: Aye: Asay, Crane, Damurjian, Esposito, Harris, Manduke, Piedici, Zaidel
Nay: NONE

Motion carried.

Mr. McNally arrived at 7:42 PM.

COMPLETENESS HEARING

Martin, J./Berman, L.; Block 2001, Lot 4; 35 Spruce Street; Minor Subdivision, Bulk Variance; #PB19-006

Present: Frederick B. Zelley, Esq., Attorney for the Applicants

Mr. Zelley advised the board that he was present on behalf of the applicants.

Noting that the application had been deemed incomplete during the board's December 17, 2019 meeting, Mr. Schley advised the board that only one (1) of the outstanding checklist items had been submitted and that the applicants are requesting waivers for the remaining eight (8) items. Mr. Zelley stated that the applicants simply want to subdivide the property and create a new building lot which is conforming with the exception of frontage. He opined that the outstanding checklist items are related to the physical development of the new lot and because none is proposed, the waivers should be granted.

Mr. Drill asserted that because any development would affect the surrounding neighborhood and because the board wants to ensure that that impact is mitigated as much as possible, the applicants should submit an architectural sketch of the largest house that could be built on the property along with a typical floor plan and show the placement of that house on the new lot. If the eventual owner wants to make revisions, he would have to return to the board.

A straw poll unanimously determined that the board was not in favor of granting any of the waiver requests and that the application should remain *incomplete* until the outstanding checklist items were submitted. In addition, the board delegated its authority to deem the application complete to Mr. Schley, after the outstanding items are submitted.

Mr. Zaidel moved to deny the waiver requests, to deem the application *incomplete* and to delegate the board's authority to deem the application complete to Mr. Schley. Ms. Manduke seconded.

Roll call: Aye: Asay, Crane, Damurjian, Esposito, Harris, McNally, Manduke, Piedici, Zaidel
Nay: NONE

Motion carried.

PUBLIC HEARING

Moye, William & Carol; Block 11401, Lot 11; 11 Mountain Road; Minor Subdivision, Bulk Variances; #PB17-001

Present: Stephen E. Parker, PE, PP, Engineer and Planner for the Applicants

The applicants, Mr. Parker and the board's professionals were duly sworn by Mr. Drill.

William Moye, applicant residing at 11 Mountain Road (also known as 313 Martinsville Road) testified that he and his wife, Carol, had lived on the subject property for over 30 years and now sought to subdivide that property. At this point, they were unsure as to whether they planned to sell the proposed new lot or build a dwelling on it.

Mr. Drill read the public notice for the application into the record.

Mr. Schley stated that the proposed subdivision requires relief for maximum lot yield permitted for the entire property and for minimum improvable lot area for the proposed new lot. He explained that these are companion regulations that determine whether, once environmental constraints such as wetlands and

transition areas are factored out, there is adequate land remaining to support the construction of dwellings and the typical items that accompany dwellings such as sheds, pools and patios. In this case, the maximum lot yield is one (1) where two (2) lots are proposed and the improvable lot area required on the new lot is 22,000 square feet where approximately 3,900 square feet is proposed.

Mr. Banisch added that, prior to the Township Committee passing the minimum improvable lot area regulations, the board conducted studies and found that in a two (2) acre zone, 22,000 square feet was the average amount of square footage needed to accommodate a dwelling and accompanying accessory items. He stated that these regulations were created along with other ordinances to help control the height and mass of development.

Mr. Crane advised the board that he had walked the site and the surrounding area. Mr. Zaidel and Chairwoman Piedici stated that they had driven by the property.

Stephen E. Parker, PE, PP, owner of *Parker Engineering & Surveying PC*, Somerville, NJ, was qualified as both a professional engineer and a professional planner. Referring to Comment 3 in Mr. Schley's memo dated 01/23/2020, he testified that the rear of the proposed dwelling on the new lot was very near the wetlands transition area and opined that by utilizing transition area averaging, the applicants could gain approximately 3,000 square feet which would allow for some amenities like a patio or shed.

With regard to concern expressed about the size of the proposed drywell (Comment 8), Mr. Parker testified that the applicants would comply with all requirements for stormwater infiltration and would not request an exception or relief from such. He stated that there were other methods to handle water runoff such as detention basins and showed a potential location for one, if needed, to the west of the proposed driveway. A discussion ensued about the possibility of relocating the driveway farther away from the Mountain Road/Martinsville Road intersection for safety reasons and the effect that might have on the location and effectiveness of a detention basin.

In response to Comment 9, Mr. Parker stated that mounding for the proposed septic field would be approximately three (3) feet above grade. He noted that because it would be located in the corner of the property near Mountain Road and Martinsville Road, an area which is already adequately buffered, he saw no need for any additional buffering.

Mr. Zaidel asked if the property was located in an area designated in the *Groundwater Resources Report* by Matthew Mulhall as one where there is an issue with aquifer recharge. Mr. Parker was unfamiliar with the report and offered to return with an answer once he reviewed it. Mr. Drill asked Mr. Banisch and Mr. Schley to review the report also.

Mr. Zaidel also noted that the property is located in a Conservation Residential District (CR-1) which, according to the 2010 Master Plan, encourages lots which are larger than required by the zoning ordinance.

Mr. Parker stipulated, as conditions of approval, to all the remaining comments in Mr. Schley's memo.

Mr. Parker asserted that both variances qualified for relief under the "c-1" or "hardship" criteria because of the wetlands and transition areas which occupy a significant amount of acreage on the subject property. He continued by opining that the intent of the ordinance is to protect these sensitive areas and as a condition of approval, they would be contained in easements which would satisfy that objective. Finally, he stated that there would be no substantial detriment to the public good.

A discussion ensued as to whether or not the presence of wetlands and transition areas represented "exceptional topographical conditions uniquely affecting a specific piece of property" since many properties in the township are affected by wetlands and transition areas. Mr. Drill asserted that this property would have to be distinguished from other properties with the same conditions in order to satisfy the positive criterion for a "c-1" or "c-2" ("benefits outweigh detriments") variance. He continued by opining that the intent of the regulations is to protect sensitive environmental areas from development.

Mr. Crane questioned whether the fact that the subject property is a corner lot negatively impacts the size of the building envelope. Mr. Schley confirmed that because front yard setbacks are larger than side yard setbacks and a corner lot, by ordinance, has two (2) front yards, the building envelope is smaller than that of an interior lot which has only one (1) front yard. He also confirmed that the minimum required 22,000 square feet of improvable area on a two (2) acre lot could only be realized on an interior lot. A discussion ensued concerning prior subdivisions on neighboring properties and the impact on this property of the Conservation Residential District designation which first appeared in the 2003 Master Plan. Mr. Schley indicated that subdivisions on neighboring properties predated the 2003 Master Plan and confirmed that the Township Committee has not amended the zoning ordinance to establish the CR Districts recommended in the Master Plan.

Hearing no further questions from the board, Chairwoman Piedici opened the hearing to the public for questions for this witness. Hearing none, that portion of the hearing was closed.

Mr. Parker stated that he had no further testimony to offer at this time and requested that the application be carried so that he could have an opportunity to review the Mulhall Report and further research the wetlands regulations. Chairwoman Piedici announced that the application would be carried *with no further notice* to the regular meeting scheduled for April 7, 2020 and the applicants agreed to an Extension of Time to Act through June 30, 2020.

COMMENTS FROM STAFF OR BOARD MEMBERS – Mr. Crane commented about the Warren Township Master Plan and Ms. Asay noted that the regular meeting scheduled for April 21, 2020 fell during Spring Break.

ADJOURN

At 9:23 PM, Ms. Asay moved, Mr. Damurjian seconded, all in favor and carried, to adjourn.

Respectfully submitted,

Cyndi Kiefer, Secretary
Township of Bernards
Planning Board

Approved as revised 02/18/2020

02/18/2020 dskpjd kmjc