

PLANNING BOARD MINUTES  
PUBLIC MEETING  
SEPTEMBER 10, 2015 - 7:00 P.M.  
HELD AT OAKLAND SENIOR CENTER  
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ☐ Adoption of an annual schedule of meetings
- ☐ Posting a copy of same at Borough Hall
- ☐ Forwarding a copy of same to The Record
- ☐ Mailing a copy to any person requesting same

\*\* MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.

PLANNING BOARD MEMBERS:

Robert Knapp, Jason Shafron, Lee Haymon, Nicholas DiLandro, Dan Hagberg, Elaine T. Rowin, John Morris, Councilman Jensen, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:03 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Madden, Knapp, DiLandro, Mr. Shafron, Hagberg, Morris, Councilman Jensen and Mayor Schwager and Chairman Potash  
Absent: Mr. Haymon

Also in attendance Mr. Joseph Russo, Esq., Board Attorney, Ms. Rebecca Mejia, Board Engineer and Steve Lydon, Board Planner.

Mr. Knapp sitting in for Mr. Haymon.

Motioned by Councilman Jensen and seconded by Mr. Knapp, to excuse the absences were voted unanimously by the Board.

Motioned by Mrs. Rowin and seconded by Mr. DiLandro, to open the meeting to the public regarding matters not on the agenda was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mayor Schwager, to close the meeting to the public regarding matters not on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Barnstable Academy – 8 Wright Way, Block 3301, Lot 8. Public hearing for an amended site plan.

Mr. Michael Lavigne, Esq. was before the Board representing the applicant. He explained that the property is located in the IP-Industrial zone for modifications being proposed to the outside of the building for an existing use. The building is occupied by a daycare and a private school for children grades 5<sup>th</sup> through 12<sup>th</sup>.

Mr. Lavigne informed the Board that he has done the appropriate notice. Mr. Russo advised Mr. Lavigne that he believes a variance is required for a 75-foot buffer being disturbed. Mr. Lavigne responded that he included wording in the notice that would support the application in the event a variance or a waiver is needed.

Mr. Lavigne introduced Ms. Danny Ryckman who is “Head of School” for Barnstable Academy. She was sworn in and testified that she oversees all the academic needs of the students at the school. Barnstable Academy is a private school that provides specialized programs, individual attention and a safe environment for the students.

She explained that they were granted a use variance by the Oakland Board of Adjustment back in June of 2002. They occupy the second and third floor of the building and the pre-school, Loving Touch Nursery School, occupies the first floor. Ms. Ryckman explained they are proposing to improve the pick-up and drop-off circulation in the parking area, relocate existing basketball court and turf field.

This year 96 students are enrolled along with 23 staffers and 3 drivers. Currently, ten students, juniors and seniors, have privileges to drive to school. Chairman Potash questioned the number of children enrolled in the pre-school. Ms. Ryckman responded that she was not sure but would provide the Board with the number. Chairman Potash questioned if the timing was staggered for Barnstable Academy and the pre-school drop off. Ms. Ryckman responded that the pre-school drop off is in the front of the building and would not have an impact on Barnstable Academy’s dropped off.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to open the meeting to the public regarding matters concerning Ms. Danny Ryckman’s testimony was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to close the meeting to the public regarding matters concerning Ms. Danny Ryckman’s testimony was voted unanimously by the Board.

Mr. Matthew Greco from McNally Engineering was sworn in. He shared his credentials and the Board accepted his qualifications. He offered an exhibit.

Exhibit A-1, Preliminary & Final Site Plan prepared by McNally Engineering July 7, 2015.

Mr. Greco explained that the property is located in the IP-Industrial zone consisting of 3.4 acres. The building is an existing three-story building with a septic system in the front yard. They are seeking to modify the onsite parking in the rear portion improving circulation. In addition, they are proposing to relocate and improve the turf field and basketball court.

Currently, there are 134 parking spaces onsite and required parking is based on two spaces per classroom. There are no changes in the number of classrooms leaving the required number of parking spaces for Barnstable Academy 50 spaces. The turf field being proposed will encompass approximately 23 of the parking spaces leaving a total of 111 spaces. The student unloading zone is barrier free and does comply with ADA regulations. Curbing is being proposed to help delineate the drop off and pick up area. In addition, there are five existing handicapped spaces where four spaces are required.

The applicant proposes to relocate a 40-foot wide by 100-foot long turf field and a 50-foot by 60-foot basketball court which they are trying to keep together and away from traffic. In addition, adjacent to the basketball court, the grade climbs and they are proposing a concrete retaining wall and structural calculations will be provided. They would also add a berm behind the retaining wall with new vegetation. The minor increase in impervious coverage of approximately 450-feet would not affect the present drainage.

Exhibit A-2, Aerial picture of the property dated September 10, 2015.

Exhibit A-3, Preliminary & Final Site Plan prepared by McNally Engineering September 25, 2015.

He explained the existing conditions in the aerial exhibit.

Chairman Potash questioned an inconsistency with the curbing detail on the site plan. Mr. Greco responded that he would revise the site plan to show Belgium block fronting the two-sided curbing detail.

Mrs. Rowin suggested that the basketball court be shifted slightly counter-clockwise to move it further away from the student drop-off area. She questioned if the daycare is included with the parking space numbers. Mr. Greco responded that the daycare is included in the numbers.

Councilman Jensen suggested that a handicapped parking space that is set back a distance from the building be located closer. Mr. Greco responded that they can move the space closer to the building. A discussion ensued concerning whether or not the school needs a full size basketball court versus a half court. Ms. Ryckman responded that they would prefer to keep the size as it is to allow more room for the students to practice.

Councilman Jensen suggested that another access point to the field be included. Chairman Potash agreed and suggested that the access be added near the student drop-off route.

Mr. Morris expressed that he saw no advantage to rotating the basketball court since it would encroach upon the turf field. A discussion ensued concerning the dimensions of the turf field and how it could be adjusted to fit the rotation of the basketball court.

Ms. Mejia questioned if there would be a six-inch overlay of asphalt, Mr. Greco responded yes. She questioned if the basketball court was going to be lifted, Mr. Greco responded no. She also questioned the number of trees being removed. Mr. Greco responded that two plum trees would be removed and relocated somewhere on the property.

Mr. Knapp expressed concerns with the size of the access gates in comparison to fire apparatus and emergency stretchers. He said the access gates would need to be bigger to accommodate emergency equipment in the event of an injury. A discussion ensued concerning the best locations for the fencing and double door gates for both access points. Mr. Knapp suggested that the curbing be depressed near the access gate located closest to the basketball court.

Mr. Russo referred to Mr. Lydon verifying that the basketball court would encroach within the 75-foot buffer area requiring a variance. Mr. Lydon agreed and explained the negative and positive criteria. Chairman Potash verified that known of the mature buffer would be encroached. Mr. Greco responded that the buffer would be left as it is. He entertained a motion to open the meeting to the public.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to open the meeting to the public regarding matters concerning Mr. Greco's testimony was voted unanimously by the Board

Ms. Sharon Gaglione, 151 Long Hill Road, questioned if the root system of the existing buffer would be disturbed and if there would be a light for the basketball court. Mr. Greco responded that the buffer would not be disturbed and no lighting is being proposed for the basketball court area.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to close the meeting to the public regarding matters concerning Mr. Greco's testimony was voted unanimously by the Board.

Mr. Matthew Frasco, owner/manager of the building, was sworn in. He testified that the parking encompasses the entire building. He explained that enrollment of the daycare is approximately 66 children and 80 total with staff. Chairman Potash verified that 111 parking spaces would be enough for both schools. Mr. Frasco responded that the parking is adequate for both schools.

He explained the drop-off time for the daycare which begins at 7:30 a.m. to 9:30 a.m. and pick-up is generally between the hours of 4:00 p.m. and 5:00 p.m.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to open the meeting to the public regarding matters concerning Mr. Matthew Frasco's testimony was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to close the meeting to the public regarding matters concerning Mr. Matthew Frasco's testimony was voted unanimously by the Board.

Mr. Lavigne concluded with testimony and gave the Board positive and negative criteria for the application. He noted that the one resident's concerns have been addressed and requested that the variance and amended site plan be granted by the Board.

Chairman Potash suggested that they review the changes made before a vote. In addition, he suggested that a straw poll vote be taken and that Board members vote 'yes' or 'no' to rotate the basketball court counter clockwise.

Straw Poll Vote:           Ayes: Mrs. Rowin  
                              Nays: Messrs. Knapp, Shafron, DiLandro, Hagberg, Councilman Jensen,  
                              Morris, Mayor Schwager and Chairman Potash

Chairman Potash announced that the basketball court remain in the same location as proposed.

Chairman Potash reviewed the changes with the Board:

- Emergency gate access will be double gated for both basketball court and turf field.
- Recessed curbing will be added in the area near the basketball court to allow the transport of emergency apparatus.
- Concrete retaining wall with calculations will be erected instead of a block wall.
- Two sided concrete curbing detail added to the plans with Belgium block perimeter.
- Handicapped parking space located away from the building, be moved closer to the building.
- Pavement cut/patch detail be added to the plans.
- Show location of light near the drop-off and pick-up area.

Chairman Potash suggested that the Board authorize Mr. Russo to draft a resolution of approval and vote on the application next month to make sure all the adjustments suggested have been done.

Motioned by Mayor Schwager and seconded by Mrs. Rowin, to authorize Mr. Russo to draft a resolution of approval.

Roll Call:           Ayes: Mrs. Rowin, Messrs. Knapp, Shafron, DiLandro, Hagberg, Morris,  
                              Councilman Jensen, Mayor Schwager and Chairman Potash  
                              Nays: None  
                              Abstain: None  
                              Absent: Mr. Haymon

Chairman Potash announced that the Barnstable Academy would be carried to the October 8, 2015 with no further notice.

REVIEW OF ORDINANCES:

1. Pilgrim Pipeline

Chairman Potash: Next thing on the agenda is the Pilgrim Pipeline review. You should have all received a copy of the draft ordinance being proposed by Mayor and Council regarding pipelines. Perhaps the Mayor or Mr. Jensen could give us a little history or background on this.

Jensen: I'll let the Mayor fill you in.

Mayor: Well as you know, this is a very controversial issue. We have had many concerned residents and people involved come and talk to us. We had the Environmental Commission do a report, a very extensive report, on the complete research of the issue and the Council decided to have the borough attorney draft a resolution which was introduced.

Chairman Potash: We have many pipelines that run through our community, most of which are very important and necessary. What would be the difference between this pipeline and the type you are trying to exclude?

Mayor Schwager: I think you have to be careful when you try to exclude something very specifically.

Chairman Potash: I agree.

Jensen: It is not regulated

Chairman Potash: How do we exclude any pipelines? Pipelines are generally beneficial.

Mayor Schwager: It would have been beneficial for the Board to have read the report submitted by the Environmental Commission.

Morris: Yes but you can't be prohibiting things that are important for the country overall. Every community would rather not have it go through their community. If people 50 years ago had taken this position, we would never have natural gas pipelines feeding our homes now.

Mayor Schwager: You are absolutely correct, however, the Environmental Commission report discusses the safety of our emergency personnel.

Chairman Potash: We currently have several high pressure pipelines.

Mayor Schwager: I am trying to be very objective and give you an objective point of view. When the Council chose to introduce this, it was decided that it would go to the Planning Board for review and discussion. Again, you are at a disadvantage because you are reading an ordinance drafted by the Borough Attorney which was taken from a sample ordinance. Without the benefit of reading the Environmental Commission's report, unless you watched our Council meetings, you would not know the pros and the cons of the pipeline.

Rowin: How many pages?

Mayor Schwager: Do you recall Eric?

Kulmala: No I don't.

Morris: Of course there are risks associated with any pipeline which can be enumerated and identified. In my mind, a new pipeline built to new standards would certainly be a lot safer than the ones we already have. So if we are really concerned, about all those risks enumerated, then we should be applying them to the existing pipelines that are 50 60, 70 years old because I'm more worried about them than a brand new pipeline.

Chairman Potash: There are high pressure natural gas pipelines are already running through but not serve our community. Most of the gas goes up to New England from here.

Hagberg: I know in one of the towns I work with, I sit on the ordinance committee and they did discuss this. I know it was very specific to unregulated pipelines because if it's a regulated pipeline, it doesn't matter what the ordinance says. For instance, if Mr. Madden wants to put a pipeline through Oakland he's going to have a problem because the town said no. If the natural gas company wants to put a natural gas pipeline through the community, you will not be able to regulate it. One plus though is that any pipeline that goes through an environmentally sensitive area is considered horizontal construction and therefore must meet DEP requirements. The DEP may kill it before it starts but I think Oakland is doing something that another town I am in is doing which is taking a position on unregulated pipelines. This is not for pipelines period, this is for unregulated pipelines.

Chairman Potash: What is an unregulated pipeline?

Hagberg: There isn't a definition because you cannot regulate what is already regulated by the government. If a private pipeline comes through, you can prohibit it and a lot of towns are doing that. It's more of a position that towns are taking. You can't regulate public utilities.

Russo: Isn't that the same issues that arose with regard to the Tennessee pipeline which came through Ringwood and caused was some litigation.

Jensen: Yes and they stepped over every law there was to put it in and not be held accountable.

Hagberg: Yes but it was a public utility and it doesn't matter at that point. You can have any ordinance you want on the books but it's not going to apply.

Jensen: Oakland is trying to take a proactive stance here in saying we don't want this because it's unregulated. It's not public utilities therefore we should have a say. The problem is this will probably mean absolutely nothing but we want to go on the record saying this is what we want in our town and that's why we did it.

Shafron: If we didn't have this ordinance and somebody wanted to put in an unregulated pipeline through Oakland, as it stands today, there would be no Planning Board or Zoning Board review for what is being proposed?

Chairman Potash: I don't know about that but it would certainly need DEP approval. I don't know about Planning or Zoning Board approval.

Jensen: Plus I don't believe this affects private property owners. I do believe there is a difference between municipally owned land and privately owned land.

Chairman Potash: So this ordinance being proposed is just for municipal land?

Jensen: That's what it will only apply to because private property cannot be held accountable. If you want to put a gas line from your house to your barbeque grill, we can't prevent you from doing that. People do it all the time.

Morris: I'm not going to take a position on it.

Hagberg: Joe, if I can ask you a question, is this similar to when adult theme shops showed up in municipalities and they said we have to do something to regulate them because not doing anything allows them anywhere.

Russo: To a degree, but in those cases you had the constitutional issues that were being evoked. But you're right, the towns were taking a stance and realizing that the ordinance may not be worth the paper it was written on but nevertheless, decided to give it a try. During your discussions with Brian, was there any discussion as to whether or not you could have the authority to do this without being upheld?

Hagberg: It may be turned over but I don't think that's the reasoning behind doing it. Because doing nothing gives the opinion to the general public that you don't care.

Jensen: And we are not the only community. There were several other communities that put through resolutions regarding this and we used several of their resolutions to model ours.

Hagberg: Bloomingdale did steal Oakland's by the way.

Morris: It's not really an unregulated pipeline, to me that's a misnomer. It's not regulated by the Board of Public Utilities but there are plenty of other regulations that apply. You can't put in a pipeline carrying hazardous material without coming under a whole host of regulations. Mr. Chairman, my opinion is that I take no opinion on this ordinance.

Chairman Potash: I agree. Nothing personal, but I think the best and most efficient way to transport these materials is by a pipeline. Much better than transporting it by railcars through the middle of Bergen county.

Jensen: This is a double pipeline by the way. Transporting from Albany to a refinery down in Harrison and back again.

Russo: Linden not Harrison.

Morris: When you say double pipeline, do you mean double wall?

Jensen: No there are two pipelines. One is raw product coming from Albany, fractured oil, down to Linden to be refined and sent back in a separate line.

Morris: And those pipelines will be double walled?



Jensen: I would assume they must be.

Morris: To me that is a far safer situation than railcars and tanker trucks.

Jensen: The only issue is it's crossing a very sensitive area and if it does leak, the Wanaque water supply water basin may be destroyed. Again, it's a shot in the dark and we don't know if it will hold or not.

Chairman Potash: Let's take a vote. Would someone like to make a motion recommend or not recommend this ordinance be adopted by the council?

Jensen: We don't want them to do it.

Morris: I'll make a motion that the Board offers no opinion on the ordinance as drafted.

Chairman Potash: I'll second it.

Knapp: Yes

Chairman Potash: We are voting that we have no opinion.

Shafron: Yes

DiLandro: Yes

Hagberg: Yes

Jensen: No

Morris: Yes

Rowin: No

Mayor Schwager: I'm confused as to what yes or no means

Chairman Potash: If you vote yes, you're saying we are not making any recommendation and if you vote no, you're saying we should make a recommendation.

Mayor Schwager: I'm abstaining because I don't feel we should vote because we are on the Council

Chairman Potash: Yes

Russo: I will do a short letter to the Mayor and Council saying the Planning Board has no opinion.

#### MEMORIALIZATION:

1. Visions Federal Credit Union – 3 Post Road, Block 2703, Lot 2. Approval for an amended site plan.

Eligible voters: Mrs. Rowin, Messrs. Madden, Knapp, DiLandro, Hagberg, Councilman Jensen, Morris and Mayor Schwager

Motioned by Mr. Morris and seconded by Mr. DiLandro, to memorialize the above resolution of approval.

Roll Call: Ayes: Messrs. Mrs. Rowin, Messrs. Madden, Knapp, DiLandro, Hagberg,  
Morris, Councilman Jensen and Mayor Schwager  
Nays: None  
Abstain: None  
Absent: None

#### PAYMENT OF BILLS:

Motioned Mr. DiLandro and seconded by Mayor Schwager, for the payment of bills subject to the availability of funds.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Madden, Knapp, Shafron, DiLandro, Morris,  
Councilman Jensen, Mayor Schwager and Chairman Potash.  
Nays: None  
Abstain: None  
Absent: Mr. Haymon

#### APPROVAL OF MINUTES:

Motioned by Mayor Schwager and seconded by Mr. Morris, to approve the August 13, 2015 minutes.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Madden, Knapp, Shafron, DiLandro, Morris,  
Councilman Jensen, Mayor Schwager and Chairman Potash.  
Nays: None  
Abstain: None  
Absent: Mr. Haymon

#### NEW BUSINESS:

The courts are giving municipalities a 5 month immunity to prepare their Fair Share and Housing Plan of the Master Plan using Module II to come up with the affordable housing numbers. He is hoping to have a draft of the Module by the October meeting.

#### OLD BUSINESS:

Mr. Russo gave an update to the Board that he was going to pick up the plans up from Borough Hall to try to find out the location of the sidewalks by Leonard Divak that were never installed for the Ramapo Ridge development.

#### PUBLIC MEETING ADJOURNED AT 9:30 P.M.

Motioned by Mr. Morris and seconded by Mr. Shafron, to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

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Kathlyn Gurney/Administrative Assistant

\*Next meeting on October 8, 2015.