

PLANNING BOARD MINUTES
PUBLIC MEETING
OCTOBER 10, 2013 - 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:

Gina Steele, Jason Shafron, Lee Haymon, Nicholas DiLandro, Eric Kulmala, Dan Hagberg, Elaine T. Rowin, John Morris, Councilwoman Coira, Mayor Linda H. Schwager and Chairman Thomas Potash.

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

Present: Mrs. Rowin and Mrs. Steele, Messrs. Shafron, Haymon, DiLandro, Kulmala, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.

Absent: Messrs. Kulmala and Hagberg

Also in attendance Mr. Joseph Russo, Esq., Board Attorney, Steve Lydon, Burgis Associates and Rebecca Mejia, Boswell Engineering also in attendance.

Motioned by Mrs. Rowin and seconded by Mr. DiLandro, to excuse the absences of Messrs. Kulmala and Hagberg were voted unanimously by the Board. .

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

No comments.

Motioned by Mr. DiLandro and seconded by Mayor Schwager, to close the meeting to the public for matters not on the agenda was voted unanimously by the Board.

Mr. Shafron would be sitting for Mr. Hagberg and Mrs. Steele would be sitting for Mr. Kulmala.

PUBLIC HEARING:

1. Berardi – 22 & 24 River Road, Block 1805, Lot 10 and 24 River Road, Block 1805, Lot 11. Public hearing for the construction of two homes in the flood plain.

Mrs. Steele recused herself from the application.

Chairman Potash announced that the Board would be hearing the two applications simultaneously since the properties since the applicant is the owner of both properties, they neighbor one and other and are similar in nature. However, the two dwellings would be handled as separate applications and have individual resolutions.

Mr. Rocco Berardi, Mr. Patrick Berardi and Mr. Frank Pannone were sworn in. Mr. Pannone a licensed architect in New Jersey offered his credentials and the Board accepted his qualifications. His business is located in Long Beach Island, New Jersey.

Mr. Pannone explained that the two dwellings located at 22 and 24 River Road were severely damaged during the flood caused by hurricane Irene 2011. During conversations with the Zoning Official and the Zoning Officer, he was informed that his client would be required to raise the proposed dwelling at least five-feet out of the flood elevation. They then decided to raise the dwelling eight-feet above the flood elevation to utilize the first floor as a garage.

Chairman Potash questioned the comparison of the proposed homes to the existing homes. Mr. Pannone responded that his client has decided to replace the dwellings with modular homes that would conform with the existing footprint of the foundation. He explained that the existing one-story structures would be replaced with modular homes that would go no further than the existing footprint of the foundation with the addition of a second level. Due to the new flood regulations, this would include raising each structure five feet above the flood level.

Chairman Potash verified that the variances being requested would not be exacerbated. Mr. Pannone responded that the pre-existing conditions would not change and the building would not go beyond the existing footprint of the foundation.

Chairman Potash questioned if the height of the buildings would meet the Borough's height ordinance. Mr. Pannone referred to a letter from the modular company stating that the height of the homes would be as followed, 22 River Road would be 25.5-feet and 24 River Road 25.4-feet in height. Ms. Mejia expressed that her office would require the applicant to provide building height calculations according to the Borough's ordinance.

Councilwoman Coira entered the meeting at 7:20.

A discussion ensued concerning whether or not height calculations were taken according to the Borough's ordinance. Chairman Potash explained to Mr. Pannone that according to the Borough's ordinance, the maximum height of a building can not exceed 35-feet and height calculations would need to be provided to the Board engineer.

Mr. Russo verified that the flood elevations on the plans were 218.4-feet for both homes and the proposed homes would be a foot over that. Mr. Pannone responded that the flood elevations would be 221.0-feet for 22 River Road and 218.4 for 24 River Road.

Mayor Schwager questioned how the height of the proposed homes compared with the other homes in that area. Mr. Pannone responded that the other homes in the area are smaller and he predicted that the proposed homes would be eight to ten feet above flood elevation which would be approximately 16 to 18-feet higher than the other homes. He explained that it would similar to the house across the street also required to raise their home above the flood elevation. Chairman Potash questioned if the proposed homes would be similar in height as the home across the street. Mr. Pannone responded that the homes they are proposing would be a little smaller but in the general area of that height.

Mr. Russo suggested that the plans and surveys for each home be entered as exhibits.

Exhibit A-1, Site Plan last revised April 25, 2013 for 22 and 24 River Road.
Exhibit A-2, Survey for 22 River Road (13-722) and (13-723) 24 River Road.

Mr. Russo requested that Mr. Pannone list the variances for the record. Mr. Pannone responded that the variances involved with 22 River Road include a variance for 3-stories where 2 ½ - stories are permitted but argued that the first story should not be a variance since it could not be used as living space and is not covered under insurance. Mr. Russo pointed out that it shows the proposed height of the home at 22 River Road as being 35.8-feet. Mr. Pannone responded that the buildings shown in the plan have a 7/12 pitch in the roof and the modular homes company that they are dealing with offers the option a 7/12 or 5/12 roof pitch. The applicant would be going with the 5/12 roof pitch option which would decrease the height. Chairman Potash verified that based on the testimony given that the applicant was not seeking a height variance. Mr. Pannone responded that this is correct.

Mr. Russo verified that the applicant is proposing a front yard setback of approximately 16-feet where 40-feet is required, east side yard 10-feet and west side yard 6-feet where 15-feet is required and rear yard 34-feet where 35-feet is required.

Mr. Russo continued to verify that the variances involved with 24 River Road include 3-stories where 2 ½-stories are permitted and the height would not exceed the 35-feet. The proposed front yard setback would be approximately 20-feet where 40-feet is required, side yard setback of 11.25-feet where 15-feet is required and rear yard setback of 29-feet where 35-feet is required. He informed the applicant that the height would need to be clarified for both homes.

Chairman Potash verified that the front, side and rear yard setbacks would be the same variances as what currently exists and would be going no closer to the property line. Mr. Pannone responded that they would be shifting the home on 24 River Road a few inches closer to the front yard approximately 18-feet. Chairman Potash questioned if the same

goes for 22 River Road. Mr. Pannone responded that it would go forward a few inches as well.

Mayor Schwager questioned if the 24 River Road would be a two-family home. Mr. Pannone responded that neither homes are being proposed as a two-family.

Mayor Schwager questioned if the both homes would have garages and would those garages be accessible. Mr. Pannone responded that both homes would have accessible garages.

Mr. Lydon questioned if the 20-foot front yard setback was measured from the stairs or from the leading edge of the second story deck and if measurements were taken from the second story deck, it would affect the front yard setback. Mr. Pannone responded that the steps are 2-feet closer to the street. Chairman Potash informed Mr. Pannone that stairs are included when figuring the setback.

Mr. Lydon informed Mr. Pannone that according to the Borough's flood plain ordinance, testimony backing the exceptions and hardships of the variances being requested would need to be given. In addition, the applicant should indicate the status of their discussions with the NJDEP concerning this project. He explained that typically the NJDEP requires that special techniques be used to allow water flow through the garage portion to avoid floodwater damage. Mr. Russo questioned Ms. Mejia if the applicant would need to apply with NJDEP for a Stream Encroachment permit or exemption. Ms. Mejia explained that the applicant would need to submit their plans to NJDEP and they would let them know if permits are necessary. Mr. Pannone responded that he spoke to NJDEP and they informed him as long as the applicant complies with the height regulation, he would not need anything else. Ms. Mejia responded that either way she would need a determination letter confirming any discussions with the applicant.

Chairman Potash expressed that he believes that in the flood plain control ordinance, flood vents are required within the foundation. He requested that he included these vents with the foundation plans. Mr. Pannone responded that the vents are included within the foundation and supplied the Board with a plan for each home. He explained the plans show where the vents are located in both garages.

Exhibit A-3, Foundation plans for 22 and 24 River Road.

Chairman Potash questioned Mr. Lydon what items that the applicant would be responsible for such as applying to the NJDEP. A discussion ensued concerning the measurements for the setbacks. Chairman Potash explained to the applicant that the issue so far is that there are no firm numbers regarding setbacks and height of the buildings. He explained that the measurements were not taken from the steps to access the building and steps are included when figuring the setback. Mr. Pannone reviewed with the Board the location of the stairs for both dwelling. Mr. Lydon pointed out that the steps encroach more into the front yard setback as well as both side yards.

Chairman Potash explained to the applicant that the problem is the Board has to vote to approve variances and do not know what the variances are since there are no accurate figures. The Board needs to know the exact dimensions for the front yard setback which must be measured from the base of the stairs, the side yard setback measured from the stairs for both homes. Mr. Pannone questioned if the Board would allow him to draft a

letter with the correct measurements for the variances. Chairman Potash responded that he would like to see the measurements for the existing dwellings and the proposed dwellings.

Mr. Lydon informed the Board that there might be an issue with the rear yard setback for one of the homes. Chairman Potash requested that Mr. Pannone provide the Board with accurate dimensions of all setbacks for four sides of each house existing and proposed.

A discussion ensued concerning whether this application would be considered a C variance or a D variance. Mr. Russo responded if the height exceeds more than 10 percent then it becomes a D variance.

Mr. DiLandro questioned if the sheds would remain on each of the properties. Mr. Beardy responded that only one shed would remain but would agree to remove that shed if that was the desire of the Board.

Chairman Potash questioned if the foundation was block or poured concrete. Mr. Pantone responded that the foundation would be constructed with block.

Ms. Mejia informed the applicant that FEMA now requires a Flood Elevation Certificate and this would be required for both homes. Mr. Pantone responded that he would comply. Ms. Mejia questioned if there would be any changes to the storm water runoff for the property. Mr. Pannone responded that based on the existing footprint and proposed footprint, this should not change. Ms. Mejia questioned where the storm leaders currently tie into. Mr. Pannone responded that they do not lead into anything currently. Chairman Potash requested that the applicant revise the plans showing roof leaders tying into seepage pits to handle runoff for each home.

Mr. Shafron questioned how the application would be handled in the event there are changes made by the NJDEP. Chairman Potash responded that any Board approval would be contingent upon NJDEP approvals.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to open the meeting to the public regarding matters concerning the Berardi application was voted unanimously by the Board.

Mrs. Marie Lin, 15 Hillside Avenue, commented that the proposed homes look like mini McMansions and the height of these homes would impact the other homes in the flood plain.

She informed the Board that one of the properties floods every time it rains. Mrs. Lin expressed she would like to see the Borough purchase the property and leave it vacant or the applicant combine the lots and build a one story home without increasing the height. Chairman Potash expressed that the Borough's ordinance allows a building height of 35-feet and as a result of the new NJDEP regulations, these homeowners are required to raise their homes but not to exceed 35-feet in height.

Ms. Jacqueline Wilson, 20 Hillside Avenue, expressed that she believes these proposed homes are not within the existing footprint and do not fit into the neighborhood. She expressed concerns with the setbacks. Chairman Potash explained to Ms. Wilson that the applicant's architect would need to return to the Board with the accurate dimensions

for the setbacks. He assured her that the Board does not want to see a larger structure or any more encroachment into the setbacks than what currently exists.

Mrs. Kathleen Crocker, 29 Hillside Avenue, explained that she lives directly behind 22 River Road. She questioned where the water would go that pools on the property every time it rains. She expressed concern that the new homes could cause more of an impact with flooding.

Motioned by Mrs. Rowin and seconded by Mr. Haymon, to close the meeting to the public regarding matters concerning the Beardy application was voted unanimously by the Board.

Mayor Schwager commented that a considerable amount of information was missing from this application to consider taking a vote at this time. She informed the applicant that she would like plans depicting the existing and proposed footprint with the accurate setback dimensions for both homes. Mr. Pannone responded that he could submit the requested items by the following week. Chairman Potash informed Mr. Pannone that the next meeting would be November 14, 2013.

Mrs. Rowin agreed with Mayor Schwager comment concerning the lack of accurate information and that it appeared a two-family style home was being proposed. There were many unverified comments and it would be risky for the Board to vote and even vote subject to receiving the requested information. She informed the applicant that she would not vote in favor of the application until the requested documents have been submitted and time to review them. Mr. Pannone responded these questions were not asked of him prior to the meeting. He assured the Board that he would produce the documents requested in a timely fashion.

Mr. Lydon commented that the plans received by the Board shows the roof pitch higher and suggested that the Board receive an accurate portrayal of the building height being proposed. Chairman Potash reminded Mr. Pannone of their prior discussion on this matter and requested that he submit a drawing showing the accurate height with the 5/12 roof pitch. Mr. Pannone explained that the manufactured pre-fabricated homes are brought and assembled at the site. The company gives an option of 7/12 or 5/12 for the roof pitch and the applicant has opted to the 5/12 to keep the height down. Chairman Potash repeated those drawings need to be submitted showing the roof pitch at 5/12. In addition, height calculations using average grade around the structure. Ms. Mejia suggested that Mr. Pannone include in the average grade to the drawing showing the roof pitch. Mr. Pannone responded that those drawings were done by the manufacturer and would have to request that from the company. Chairman Potash suggested that he also include the average grade on his foundation plans.

Mr. Russo questioned Ms. Mejia about the house across the street from these two properties and if the garage was enclosed. Ms. Mejia responded that it has an opening on all four sides. Mr. Russo informed Mr. Pannone that when applying for a Flood Elevation Certificate, they might require that the garage level be left open. A discussion ensued concerning flood vents for the proposed home. Mr. Pannone responded he did not submit the foundation plans depicting the vents to the Board but he would include a copy of this plan as well as submit them to the NJDEP.

Mr. Shafron remarked that he would like to hear more about the positive and negative criteria for the variances being requested. Chairman Potash informed Mr. Pannone that he would need to be prepared to touch on the negative and positive criteria at the next meeting. Mr. Pannone responded that these properties are pre-existing conditions of a zone change by the Borough's ordinance and it is out of the applicant's control like the storm damaged to two dwellings.

Mr. Lydon pointed out that if the applicant would go the couple of feet higher than the required flood elevation, this would also help reduce the height of dwelling. Mrs. Rowin informed Mr. Pannone that he would need to get his revised plans to the professionals no less than 10 days prior to the hearing so they have time to do a proper review.

Chairman Potash announced to the public that the Berardi application would be carried to the November 14, 2013 public hearing with no further notice.

MEMORIALIZATION:

1. VPK Enterprises, LLC- 588 Ramapo Valley Road, Block 4701, Lot 14.
Approval for an amended site plan.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to memorialize the above mentioned resolution of approval.

Eligible Voters: Mrs. Rowin, Messrs. Shafron, Kulmala, DiLandro, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. DiLandro, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Messrs. Kulmala and Hagberg

PAYMENT OF BILLS:

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

Roll Call Vote: Ayes: Mrs. Rowin and Steele, Messrs. Shafron, DiLandro, Haymon, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Messrs. Hagberg and Kulmala

APPROVAL OF MINUTES:

Motioned by Mrs. Rowin and seconded by Mr. Morris, to approve the September 12, 2013 minutes.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Shafron, DiLandro, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.

Nays: None
Abstain: Mr. Haymon and Mrs. Steele.
Absent: Messrs. Hagberg and Kulmala

NEW BUSINESS:

Mayor Schwager informed the Board that there was a presentation at the Mayor and Council meeting the night before advising council of the limitations that the DR Mullen property face being located in the Preservation Area. The property owners are looking for the cooperation of the town to endorse their request to become a Designated Redevelopment Area. She continued that two of the council people strongly oppose this endorsement because they feel the storage of construction equipment at this site would be an unattractive view from Interstate 287. However, she explained that one of the council members previously a liaison for the Planning Board commented that this topic was investigated and recommended by the Planning Board and council should consider their recommendation.

Mayor Schwager recommended that another letter be drafted to the Mayor and Council stating the Planning Board's reasons for recommending this. Mr. Russo recommended that Mr. Cascio, Esq. provide a profile plan depicting a view from Interstate 287. He commented that the site sits approximately 150-feet lower than the highway and probably would not be seen. Chairman Potash agreed with Mr. Russo that Mr. Cascio should provide a profile plan depicting the site from the highway and draft a letter supporting that this site would not be seen from the Interstate 287. Mr. Lydon suggested that Mr. Cascio also include the buffering of trees requested by the Board. Mr. Morris expressed that it is also the responsibility of the Borough to help these business to keep going.

OLD BUSINESS:

Chairman Potash informed the Board that the Highlands Conformance topic would not be discussed and would be carried until further notice due to wastewater management issues that need to be settled.

Next meeting is November 14, 2013.

PUBLIC MEETING ADJOURNED AT 9:00 P.M.

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

Respectfully submitted by,

Kathlyn Gurney/Administrative Assistant

*Next meeting on November 14, 2013.