

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
August 3, 2020
VIA ZOOM VIRTUAL MEETING

CALL TO ORDER

Chairman Lewis called the virtual meeting to order at 7:06 p.m. and read the open public meetings statement in accordance with the law. Those present stood for the pledge of allegiance.

ROLL CALL:

Present: Chairman Robert Lewis, Vice Chairman Tom Rochat, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Richard Rinzler, Marilyn Layton and John Lawlor, Alt. #1

Also Present: Susan Rubright, Board Attorney, David Banisch, Planner and Shana L. Goodchild, Secretary

Absent: Kevin Welsh and Gerrie McManus, Alt. #2

There were approximately four (4) audience members present.

BILL LIST

- August 3, 2020

There being no questions or comments, a motion was made by Councilwoman Tweedie, seconded by Mr. Rochat to approve the August 3, 2020 Bill List as presented. The motion carried by the following roll call vote:

Roll Call:

Aye: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor, Ms. Layton and Chairman Lewis

Nay: None

Abstain: None

MINUTES

- July 6, 2020 Regular Meeting

Vice Chairman Rochat made a motion to approve the minutes of July 6, 2020 for content and release. Mr. Rinzler seconded the motion. All were in favor.

RESOLUTIONS

- **Resolution No. 2020-17** – Appl. No. PB2020-05, Block 14, Lot 3, Suite 1 – BATI Juice Bar
Those eligible: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Councilwoman Tweedie made a motion to adopt Resolution No. 2020-17. Vice Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Those Opposed: None

- **Resolution No. 2020-18** – Appl. No. PB2020-06, Block 15, Lot 1.01, Suite 8 – PhyZeke, LLC
Those eligible: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Councilwoman Tweedie made a motion to adopt Resolution No. 2020-18. Vice Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Those Opposed: None

- **Resolution No. 2020-19** – Appl. No. PB2020-05, Block 14, Lot 3 – POE Yoga, LLC
Those eligible: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Mr. Rinzler made a motion to adopt Resolution No. 2020-19. Vice Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rochat, Mayor Vallone, Councilwoman Tweedie, Mr. Rinzler, Mr. Lawlor and Chairman Lewis

Those Opposed: None

Attorney Rubright noted that there was another Change of Use application approved for Blackwater Trust and the resolution was prepared however that resolution was tabled due to an issue with the escrow. Anthony Melillo was present and explained that he was unaware of the status of the Blackwater Trust tenant however, assured the Board that the fee and escrows would be paid.

Planner Banisch logged on to the meeting at this time.

Councilwoman Tweedie and Mayor Vallone recused themselves from the meeting (7:20 p.m.) and were muted.

APPLICATION

- Appl. No. PB2020-07
M.E. Far Hills Proper, LLC
49 Route 202
Block 15, Lot 1.01
Suite 13/13A
Site Plan Waiver/Use Variance

Nicole Magdziak, Attorney from Day Pitney was present representing the applicant for a site plan waiver and D1 Use Variance in accordance with 40:55D-70D1. She explained that the underlying use was proposed as a general office use however, the exact model is a subscription based general professional office use. She noted that the applicant was also seeking the right to have the subscriptions/subscribers enter into subscription agreements for the space without returning to the Board for each individual subscriber of the space given the nature of the use.

Anthony Melillo, Managing Member, Melillo Equities, parent sponsor of M.E. Far Hills Real Estate Fund, sole owner of M.E. Far Hills Proper, LLC 49, Route 202, Far Hills, NJ was present and sworn in by Attorney Rubright. When asked if he had the authority to speak on behalf of the applicant, Mr. Melillo responded in the positive.

Using the site plan submitted (Exhibit 2), Mr. Melillo noted that the subject space is Building 4, Suite 13 (the East side of the assemblage of buildings on the plan). Using Exhibit 1, Mr. Melillo explained that the first floor consists of an entrance lobby with a conference room and the second floor contains another foyer/lobby for which Claremont Construction formerly occupied Suite 13 and 13A consisting of 5,193 sq. ft. with approximately 15 to 22 employees. The right side of the space consists of executive offices and the left side consists of staff and administrative offices – 11 private offices on one (1) side and administrative/back offices to the left side. The proposal is to split the space as large space is not conducive to the current market. Suite 13A would be utilized as private offices, similar to a “We Works” scenario however more regimented with subscriptions. The subscriptions would be limited to eleven (11) with access to eleven (11) on-site parking spaces. Referencing the parking schedule provided with the application material,

Mr. Melillo explained that eleven (11) parking spaces would be allocated to Suite 13A and four (4) parking spaces would be allocated to Suite 13 (929 sq. ft.). He opined that four (4) spaces would be adequate and within range of what neighboring towns require. He noted that the application is primarily for Suite 13A with the target tenant being a private office use specifically for start-up, incubator type space. The second target tenant is a satellite office for a two (2) or three (3) day a week work from home executive; a parent company may subsidize the cost of the space or save money not having to commute. The third is in response to the pandemic and focuses on employees that need space to allow them to work outside of the home to avoid the distractions of home based offices. The last is a home office out of the home; personal asset management, traders, private wealth managers, web designer, etc. When asked by his attorney to describe the terms of the subscription agreement, Mr. Melillo explained that the agreement would designate each subscriber to a particular office. They would be provided a master key to the first floor lobby, keys to the bathrooms and keys to their private office. The subscription could run for a single month or a year plus however, Mr. Melillo noted that most are looking for flexibility of short term leases. Hours of operation would be restricted to 6 a.m. to 6 p.m., Monday through Saturday with most wanting 9 a.m. to 5 p.m. When asked to describe the remaining 929 sq. ft. (Suite 13), Mr. Melillo explained that the "to be determined" tenant would enter through the first floor lobby and have shared access to the bathrooms and kitchen amenities with keys to their private office. When asked if the restroom and kitchenette would be shared by both Suite 13 and 13A, Mr. Melillo responded in the positive. When asked if there is any shared staff or receptionist, Mr. Melillo responded in the negative.

When asked by Mr. Rinzler if it could be eleven (11) different companies with eleven (11) different leasing terms for Suite 13A, Mr. Melillo responded in the positive.

When asked by Attorney Rubright if the conference room would be available for the eleven (11) plus subscribers for Suite 13A, Mr. Melillo responded in the positive and explained that there will be technology to support scheduling but it may be handled on a more communal basis. When asked who will coordinate the cleaning staff, Mr. Melillo explained that it will be the landlord/property management's responsibility along with trash removal, etc.

When asked by Vice Chairman Roachat about tenant vs. subscription agreements, Attorney Rubright noted that it was why they were before the Board for a use variance. She noted that an underlying entity will be in charge and support the subscriptions. Attorney Rubright noted that the Board would need to know the entity responsible for supporting the subscriptions. Planner Banisch clarified that the M.E. Far Hills Proper, LLC is applying for a use variance to manage a multi-tenant space that fits the general use category of professional office but involves a greater number of tenants than would normally be in a single space under existing zoning.

When asked by Planner Banisch if the interior doors will contain windows, Mr. Melillo explained that some of the doors have transparency and others have glass above. When asked if he intends to install furniture for use by the tenants, Mr. Melillo noted that a couch would be installed for aesthetic purposes. When asked if the hours of access will be limited, Mr. Melillo explained that

he would prefer the flexibility of allowing 24 hour access however if standardization across the Board was required he would agree to that condition. When asked if two (2) people could use the same office space under one (1) agreement, Mr. Melillo explained that each space will only have one (1) subscriber at any given time. When asked about the parking allocation and if spaces will be designated to individual subscriptions, Mr. Melillo indicated that they could designate spaces however he felt it was the Board's directive to create more of a co-sharing parking lot. As a follow up, Mr. Melillo requested that they not be designated as he opined the "come and go" style would be more synergistic. When asked if he thought it would be likely for all eleven (11) subscribers to be on site at the same time, Mr. Melillo responded in the negative.

When asked by Mr. Lewis how hours would be controlled, Mr. Melillo noted that it is a restriction that would be placed on the subscriber. When asked the capacity for guests or office visits, Mr. Melillo opined that it would be rare to have visitors for the general office use envisioned. He offered that in the event there was an issue with parking visitors could park in the adjacent train parking lot (adjacent to building #4). Mr. Lewis expressed concern with the lack of specificity in terms of the target tenants. Mr. Melillo offered to create a list of specific types of tenants to provide the Board assurance that the subscribers won't overburden the site. He went on to say that it will be a regimented atmosphere.

When asked by Mr. Rinzler if the subscription would preclude someone from bringing a colleague to the space, Mr. Melillo responded in the positive.

There being no additional questions of the witness from the Board, Chairman Lewis opened the meeting up to the public at 8:02 p.m. There being no questions, Chairman Lewis closed the questioning of the witness.

When asked to speak to the application, Planner Banisch explained that the applicant was asking for a use variance to permit a variation on the permitted use of professional and medical office use and a site plan waiver. The existing office space will be converted into another variety of office spaces that generally fits the use category permitted by the ordinance. Planner Banisch went on to say that the ordinance that established the requirements for this type of application was to provide the Board the opportunity to review the proposed use, consider any particular aspect of the use that may result in impacts that require mitigation, and to determine whether the site remains adequate for the change of use. Planner Banisch noted that the responsible party has and will continue to be M.E. Far Hills Proper, LLC.

Keenan Hughes, Professional Planner with Phillips Preiss based in Hoboken, NJ was present, provided his qualifications and was sworn in by Attorney Rubright. Mr. Hughes explained that the VC Zone permits professional office but does not permit the subscription model as proposed. Under the Municipal Land Use Law (MLUL) the Board can grant a use variance in particular cases and for special reasons. Mr. Hughes opined that the special reasons can be met because the property is particularly suited for the concept proposed and that the requested relief would advance the general welfare. The existing building and space lends itself to eleven (11) private

offices that could accommodate the subscription model. The use variance, if granted, would allow the existing space to evolve to meet the demands of the current and future workplace; the trend is flexibility in the workplace. Planner Hughes opined that purposes (a) and (g) of the MLUL serve as the special reasons to support the granting of the use variance. Under the negative criteria, he went on to testify that there would be no substantial impairment to the Borough of Far Hills Master Plan or Zoning Ordinance. He noted that there are no changes to the land use and no changes to the exterior of the building or the site. In conclusion, Planner Hughes opined that the proposed subscription model would be less intensive than a conventional office tenant.

When asked if he felt it would be appropriate for the applicant to produce a list of specific types of professionals for the subscription office space, Planner Hughes opined that a condition could be imposed that prevents any tenants that would generate regular appointments (medical professionals or therapists). Attorney Rubright preferred the idea of specific categories that would be low impact and not exceed the parking. Planner Banisch opined that it should be specific to a single occupant user conducting conventional office work and would not involve any retail walk-in trade but could occasionally involve an appointment held in the conference room; medical appointments with patients on site would be prohibited. Planner Banisch and Attorney Rubright offered to refine that description in a resolution if approval was granted. Vice Chairman Rochat opined that the issue of exactly what the Board is allowing should be resolved. Attorney Magdziak noted that the applicant would agree to the condition outlined by Planner Banisch. Planner Banisch amplified the point that an insurance agent would be included in the prohibited uses. Chairman Lewis suggested that the use be described as more of a work space than a kiosk.

There being no additional questions of the witnesses, Chairman Lewis opened the meeting up to the public for questions or comments. There being no questions or comments, Chairman Lewis closed the meeting to the public.

Attorney Rubright outlined the following proposed conditions of approval:

1. Eleven (11) spaces for Suite 13A.
2. Mr. Melillo will provide the designated tenant (M.E. Far Hills Proper, LLC or a related entity) as the point of contact.
3. A list of parameters to be developed by Planner Banisch and Attorney Rubright that would describe the type of use permitted which would include a single occupancy user with conventional office work, no retail walk-in trade. Occasional appointments are acceptable but no medical appointments.
4. Hours of operation will be restricted to Monday through Saturday, 6 a.m. to 6 p.m. with no more than three (3) suites from 6 p.m. to 8 p.m. as suggested by Mr. Lawlor. The hours of operation must be monitored by the tenant and built into the subscription.
5. A change in tenant or a change in the model would require a change of use and occupancy approval from the Planning Board.

Planner Banisch noted that there will be refinement to the above referenced resolution conditions that comes before the Board next month.

Vice Chairman Rochat made a motion to approve the application with the conditions as outlined above. The motion was seconded by Ms. Layton. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rochat, Mr. Rinzler, Ms. Layton, Mr. Lawlor and Chairman Lewis

Those Opposed: None

Mayor Vallone and Councilwoman Tweedie returned to the meeting at 8:53 p.m.

EXTENSION REQUEST

- Request for Extension of Variance Approval – 210 Lake Road, B3 L8
E-mail dated 7/22/20 – Amy and Daniel Neu
(see Resolution 2019-19)

Daniel Neu, property owner, was present and explained that when he was before the Board approximately one (1) year ago he was preparing to construct a garage, swimming pool, cabana and interior reconfigurations within the home. Due to the pandemic and high risk health situations within the family work was sidelined. Mr. Neu noted that the current extension was through October however he requested an additional extension through the pandemic.

Attorney Rubright clarified that the resolution granted an extension to November 7, 2020.

When asked by Councilwoman Tweedie what progress was made between October 7, 2019, when the extension was granted and March of 2020 when the pandemic started, Mr. Neu explained that they began meeting with contractors to solicit bids and started cleaning-up the attic to remove insulation to prepare the space for renovation. When asked if the original resolution contained conditions that didn't require physical changes to the structure, Ms. Goodchild noted that some of the conditions required revised plans and the preparation and recording of a conservation easement. When asked if those items had been satisfied, Mr. Neu responded in the negative but noted that it was his understanding that those items were to be submitted with the building permit. Attorney Rubright explained that resolution compliance is prior to applying for zoning and construction permits and reminded Mr. Neu that in October of 2019 it was discovered that permits had been applied for without any resolution compliance. She strongly urged Mr. Neu to work this his engineer, Mr. Madsen, to comply with the resolution conditions; the items should be submitted for review by the Borough professionals.

She went on to say that while the Board empathizes with the implications of the pandemic, progress that doesn't require construction needs to be demonstrated. Planner Banisch noted that the conditions of approval are extensive and recommended that the applicant submit a written report with responses to the conditions at an upcoming meeting. Mr. Neu agreed to return with an update of resolution compliance.

CORRESPONDENCE

1. NJ Planner May/June 2020 – Vol. 81, No. 3.

ZONING UPDATE

- Zoning memo dated July 28, 2020 – Kimberly Coward

There were no comments on the Zoning update.

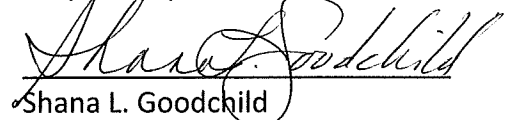
PUBLIC COMMENT

Chairman Lewis opened the meeting to the public at 9:13 p.m. There being no comment, Mr. Lewis closed the public comment portion of the meeting.

ADJOURNMENT

A motion was made by Councilwoman Tweedie, seconded by Mayor Vallone and unanimously carried to adjourn the meeting at 9:15 p.m.

Respectfully submitted,



Shana L. Goodchild
Planning Board Secretary

Approved 9/8/20