

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
March 4, 2024

CALL TO ORDER

Chairman Rochat called the meeting to order at 7:02 p.m. at the Far Hills Municipal Building and read the Open Public Meetings statement in accordance with the law. Those present stood for the pledge of allegiance.

ROLL CALL:

Present: Chairman Tom Rochat, Vice Chairman Robert Lewis, Mayor Kevin Welsh, Councilman Peter Coccoziello, Sheila Tweedie and Jack Koury

Also Present: Frank Linnus, Board Attorney, David Banisch, Planner and Shana L. Goodchild, Secretary

Absent: John Lawlor, Suzanne Humbert, Andrea Harvey, Alt. #1 and Thomas Swon, Alt. #2

There were approximately eleven (11) audience members present.

BILL LIST

- March 4, 2024

Vice Chairman Lewis made a motion to approve the Bill List. Mr. Koury seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Lewis, Councilman Coccoziello, Mrs. Tweedie, Mr. Koury and Chairman Rochat

Those Opposed: None

Abstentions: Mayor Welsh

MINUTES

- February 5, 2024 Regular Meeting

Vice Chairman Lewis made a motion to approve the minutes of the February 5, 2024 Regular meeting for content and release. Mayor Welsh seconded the motion. All were in favor.

PUBLIC COMMENT

There was no public comment.

EXTENSION REQUEST

- Appl. No. PB2022-14
11 De Mun, LLC
Block 13, Lot 5
11 De Mun
Minor Subdivision w/Variance
2nd Extension

Frederick Zelle, Attorney on behalf of the applicant was present and explained that the minor subdivision was approved by resolution on March 6, 2023 and an extension of time to file the deeds was sought and received previously. The deed has been prepared and approved subject to minor revisions and all resolution compliance items are either complete or pending however, the applicant will be unable to file the deeds by the deadline of March 6, 2024. Mr. Zelle explained the applicant is waiting for Somerset County Planning Board sign off, Somerset Union Soil Conservation approval and sewer approval. Mr. Zelle went on to address the potential issue with the sewer connection noting that they have received indication that the sewer connection fee for the new home will be approximately \$160,000. The actual sewer usage for what exists now (hair salon and a 4-bedroom apartment) versus two (2) single family homes is identical. The sewer design has been approved and does not require an additional physical connection to the street; it will be connected to the existing lateral. If the approval is granted requiring the aforementioned connection fee, the applicant will likely need to abandon the current plan and build a larger two (2) family building without a subdivision. In conclusion, Mr. Zelle requested an extension of time through September 6, 2024.

Mr. Linnus noted that under the Municipal Land Use Law (MLUL) the applicant would be permitted an extension through September 12, 2024.

Mayor Welsh noted that DeMun Place will be repaved in the Spring and road openings will not be permitted. Mr. Zelle noted that openings related to utilities will occur in the next six (6) weeks; no road openings are required for sewer.

Chairman Rochat made a motion to grant the extension of time as requested. Mr. Koury seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Welsh, Councilman Coccoziello, Mrs. Tweedie, Mr. Koury and Chairman Rochat

Those Opposed: None

BOARD DISCUSSION

- Reexamination of the Master Plan and Development Regulations (N.J.S.A. 40:55D-89)

Mr. Banisch explained that the final issue for the Board to discuss is an ordinance amendment with respect to the Stream Corridor. The Re-examination Report has considered a variety of different ordinance amendments and the Stream Corridor ordinance has some urgency for being addressed. The proposal that has been discussed would create an exception for construction of an accessory structure up to 1,500 sq. ft. in the stream corridor without having to appear before the Planning Board

for a variance. This would relieve local residents from having to appear before the Board but they would still need to comply with State regulations that would apply. The ordinance includes a definition of Improved Lot Area to define the area of the lot being used (principal structure, accessory structure, play areas) with the only exceptions being forests, fallow fields or successional growth fields. Mr. Banisch noted that the issue came to the Board's attention when a homeowner wanted to construct a modest-sized in-ground swimming pool. Mr. Banich also noted that there is a conservation easement requirement that attaches to the stream corridor when a property owner appears before the Board. There has been some difficulty with the requirement because the ordinance is unclear about what gets included in the stream corridor. There is another proposed requirement which would create a ten (10) foot carve out/buffer area established around the structures/features approved by the Board for on-going maintenance; the buffer could be whatever the Board feels is appropriate (for example 20 feet). When asked by Councilman Coccoziello the definition of a stream, Mr. Banisch replied 'a non-intermittent blue line, surface water course as depicted on the USGS soil survey'. Mr. Coccoziello noted that the Borough needs to ensure that anyone that has an existing non-conforming structure is protected from any kind of event that would otherwise harm their property. Mr. Banisch agreed to review the ordinance for a provision for non-conforming structures destroyed by an act of God. He noted that the proposed ordinance amendment would still require the property owner to return to the Board if the building exceeded 1,500 sq. ft. Mr. Coccoziello explained that the Board needs to address the issue because many mortgage lenders and insurance companies ask the question of the property owner. Mr. Banisch noted that language could be added to the ordinance recognizing pre-existing non-conforming conditions allowing them to be re-constructed in the same size and manner. Mr. Lewis noted that the provision should only cover structures that were legally constructed. Mr. Linnus expressed concern with outside agencies, noting that if the ordinance is passed there is no stop-gap which triggers a review of whether there are other outside agency approvals that are necessary. Mr. Banisch explained that if the proposed construction exceeds 1,000 sq. ft. the current ordinance requires that they submit a plan to the Borough Engineer for managing minor development stormwater management. If it is less than 1,000 sq. ft. there will be no one looking at it beyond what the Zoning Officer reviews. When asked by Mr. Coccoziello if stormwater management facilities are permitted in the stream corridor, Mr. Banisch read into the record the proposed ordinance amendment contained in his March 4, 2024 memo, Subsection 803.b.3.g.iv:

For the purpose of this subsection, "improved lot area" shall include all legally existing impervious surfaces, such as pools, lawns, walkways, patios, steps, ornamental landscaping, athletic and sports courts, equestrian riding rings and paddocks, and accessory buildings, structures and uses pursuant to subsections 803.B. a., b., and c. above, existing utility lines, stormwater management swales and improvements, wells and septic systems. Improved lot area shall not include wooded areas, forest management areas, fallow and successional growth fields.

When asked by Mr. Coccoziello if language should be included regarding removal of invasive species or stream bank improvements, Mr. Banisch responded in the positive noting that the Borough has required notice of stream corridor restoration work but does not regulate the activity. Vice Chairman Lewis noted that there is a list of project sponsors in the wetland regulations that includes NRCS, US Fish and Wildlife and NJDEP. It was the consensus of the Board that if it is a stream corridor restoration project that is permitted or approved by NRCS the Board had no objection to the activity and no review would be necessary. Mr. Linnus suggested adding a provision that activity is subject to applicable State and Federal regulations. Mr. Coccoziello questioned the need for the 'belt and

suspenders' approach if the stream corridor is protected by the State. Mr. Lewis explained that the Borough's ordinance has a different definition; the purpose for the original ordinance was because the State was not as restrictive. Mr. Banisch pointed out that the ordinance protects wetlands and steep slopes adjacent to a stream plus a buffer of 100 feet around that area. The ordinance was prepared to encourage the maintenance of forested stream corridors to keep streams cool for the macro invertebrates that inhabit the water that support larger species of aquatic life. Mr. Banisch went on to explain the science-based thinking that went into the creation of the stream corridor regulations. Mayor Welsh opined that the Borough should keep the stream corridor language for certain projects (1,500 sq. ft) to which the Board agreed. Councilman Coccoziello opined that the language should include driveways and bridle paths with the language suggested by Mr. Linnus regarding State and Federal regulations. Mr. Banisch noted that the language can specifically call out the flood hazard and freshwater wetlands regulations.

Addressing the Area in Need of Re-development, Mr. Banisch noted that the Governing Body reviewed the recommendation to consider designating a redevelopment area in the village and as a result the Board has received a Draft Preliminary Investigation Report (PIR). As part of the Re-examination report the Board has been discussing redevelopment. Messrs. Linnus and Banisch outlined the notice requirements for the PIR public hearing.

Mayor Welsh recused himself from the meeting at this time (7:44 p.m.).

Mr. Banisch reviewed with the Board in detail the Draft PIR dated March 4, 2024 which responds to the Governing Body resolution (Resolution No. 24-068) directing the Planning Board to prepare the study. He noted that the PIR is not a plan, it is a report that responds to the statutory requirements to review the conditions authorized under the law that may be found to exist in the investigation/study area. Mr. Banisch pointed out the two (2) maps contained within the draft PIR noting that the area contains 11.6 acres in the aggregate and includes all of Block 14 and 15 and three (3) lots along Dumont Road in Block 13 (Lots 10, 11 & 12) and two (2) lots in Block 12 (Hewitts and the parking lot that surrounds Hewitts) and a portion of Block 101, Lot 1 the NJ Transit lot. Among the powers that the Borough acquires when it designates a re-development area are the ability to partner with the private sector by contract, financial incentives for redevelopment projects including five (5) year tax abatement or payment in lieu of tax agreement (PILOT). One of the primary controls that the Borough acquires through the process is greater control over what is built and what is achieved; redevelopment can be very specific to appearance and size of buildings and other features. There are grants and funding opportunities for planning and development activities. There are also bonus credits that can be obtained by constructing affordable housing within a redevelopment area. Mr. Banisch outlined some redevelopment definitions and the statutory criteria, specifically (d) and (h) (see below) which form the basis for the recommendation to the Governing Body to designate a non-condemnation redevelopment area.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

b. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

Referencing the conclusions found on page ten (10) of the Draft PIR, Mr. Banisch noted that the overriding condition found throughout the investigation area does meet the statutory criteria for a recommendation. The purpose of the hearing and extraordinary notice requirements outlined by Mr. Linnus is that there is some gravity to the designation and the public needs to be heard. Following the public comment during the hearing, the Planning Board will consider a resolution with a recommendation to the Governing Body. Chairman Rochat noted that the Board forwarded a study area to the Governing Body and the Governing Body added properties to that study area (Block 101, Lot 1, Block 12, Lots 1 & 2 and Block 13, Lots 10, 11 & 12).

Mr. Linnus again outlined the notice requirements and the public hearing process and recommendation to the Borough Council noting that the public hearing by the Planning Board is the first step in a long process.

Vice Chairman Lewis made a motion to schedule the public hearing for April 1, 2024. Mr. Koury seconded the motion. All were in favor.

A lengthy discussion ensued regarding the public hearing being scheduled close to the Easter holiday. In conclusion, the Board agreed to move forward on April 1, 2024 and if necessary, a second hearing could be held. Vice Chairman Lewis noted that there will be multiple opportunities for the public to comment both at the Planning Board and Borough Council level. Mr. Banisch noted that it is up to the Borough Council whether they provide for public comment, the only guaranteed public comment is at the Planning Board level and comments can be received both orally and in writing.

Chairman Rochat opened the meeting up to public comment regarding the hearing process.

Don Hewitt, Dumont Road recommended that the Borough conduct the meeting via Zoom to provide the public the opportunity to comment.

Mr. Koury continued to express concern with scheduling the hearing for April 1, 2024 due to the holiday and spring vacations.

Mark Vogel, Spring Street noted that the school Spring break would prevent him from attending on April 1, 2024. He agreed with Mr. Hewitt about conducting the meeting via Zoom.

Councilman Coccoziello pointed out that the Planning Board had discussed the issue for the last six (6) months and the Board should move forward given the urgency of the new affordable housing regulations coming.

Vice Chairman Lewis made another motion to schedule the public hearing for April 1, 2024 with the ability to continue the hearing if necessary. Mrs. Tweedie seconded the motion. All were in favor.

Mayor Welsh returned to the meeting at this time.

EXECUTIVE SESSION

- **Resolution No. 2024-10** – Attorney-Client Privilege – Litigation Peace and Quiet Farm, LLC/Sobel vs Renard, Far Hills Planning Board and the Borough of Far Hills

Mayor Welsh made a motion to approve the above referenced resolution to enter into executive session at 8:42 p.m. for matters related to litigation. Vice Chairman Lewis seconded the motion. The motion was carried unanimously.

RETURN TO OPEN SESSION

At 8:54 p.m. the Board returned to open session.

Mayor Welsh made a motion to authorize Mr. Linnus to communicate with the attorneys that the settlement agreement discussed is acceptable to the Board with the amendments discussed in closed session. Mr. Koury seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Welsh, Councilman Cocozziello, Mrs. Tweedie, Mr. Koury and Chairman Rochat

Those Opposed: None

Mayor Welsh asked that moving forward the Executive Session be scheduled last on the agenda.

CORRESPONDENCE


1. A letter dated February 22, 2024 from Somerset – Union Soil Conservation District re: Water Main Replacement, Far Hills Borough, App# 2023-6214.

ZONING UPDATE

- Zoning memo dated February 27, 2024 – Kimberly Coward

ADJOURNMENT

Motion by Mr. Koury, seconded by Vice Chairman Lewis and unanimously carried to adjourn the meeting at 8:55 p.m. All were in favor.



Shana L. Goodchild, Planning Board Secretary

APPROVED 4/1/24