

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
October 5, 2020
VIA ZOOM VIRTUAL MEETING

CALL TO ORDER

Chairman Lewis called the virtual meeting to order at 7:07 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, Kevin Welsh, Richard Rinzler, Marilyn Layton and John Lawlor, Alt. #1

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

Absent: None

There were approximately four (4) audience members present.

BILL LIST

- October 5, 2020

Ms. Goodchild noted that the escrow accounts that were closed will remain on the list until the purchase orders are signed and the funds are returned to the applicants. Moving forward, each escrow account will be evaluated, account balances will be verified with the CFO and then listed on the Board agenda for authorization to close. There being no questions or comments, a motion was made by Councilwoman Tweedie, seconded by Vice Chairman Rochat to approve the October 5, 2020 Bill List as presented. The motion carried by the following roll call vote:

Roll Call:

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

Those Opposed: None

MINUTES

- September 8, 2020 Regular Meeting

Councilwoman Tweedie made a motion to approve the minutes of September 8, 2020 for content and release. Mr. Welsh seconded the motion. All were in favor.

RESOLUTIONS

- **Resolution No. 2020-20** – Appl. No. PB2020-07, Block 15, Lot 1.01 – M.E. Far Hills Proper, LLC
Those eligible: Vice Chairman Rochat, Mr. Rinzler, Mr. Lawlor, Mrs. Layton and Chairman Lewis

Attorney Rubright noted that the resolution was not adopted last month as there were still efforts to work through some of the conditions. There being no questions, Vice Chairman Rochat made a motion to adopt Resolution No. 2020-20. Ms. Layton seconded the motion. 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

- **Resolution No. 2020-21** – Appl. No. PB2020-08, Block 14, Lot 3 – VisionCare, Inc.
Those eligible: Mr. Rinzler, Councilwoman Tweedie, Mrs. Layton and Chairman Lewis

Attorney Rubright provided a brief overview of the application. There being no questions, Mr. Rinzler made a motion to adopt Resolution No. 2020-21. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Councilwoman Tweedie, Mr. Rinzler, Ms. Layton and Chairman Lewis

Those Opposed: None

Abstained: Mr. Welsh

APPLICATION

- Appl. No. PB2020-05 – **Board action required per Attorney Rubright's 10/1/2020 letter**
27 Route 202 FH, LLC
Block 14, Lot 3
Suite 8 – Blackwater Trust/Far Hills Café, LLC
Site Plan Waivers/Change of Occupancy

Attorney Rubright explained that the Board approved the Change of Use/Occupancy application for the above referenced applicant as presented by Anthony Melillo. However, prior to the September meeting and the adoption of the resolution the Board was alerted to the fact that

the escrow and the application fee checks were written on an account that had been closed. The resolution was tabled at the September meeting and Mr. Melillo testified that he would pay the escrow and application fee if Blackwater Trust failed to move forward. Mr. Melillo has since advised that Blackwater Trust has defaulted on their lease agreement and would not be occupying the space. In conclusion, Attorney Rubright recommended that the Board officially revoke the approval. Ms. Goodchild noted that checks for the application fee and escrow charges were received from Mr. Melillo.

Mr. Rinzler made a motion to revoke the approval for the above referenced application. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call:

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

Those Opposed: None

Abstained: Mr. Welsh

- Appl. No. PB2020-09
Laurel Stone Farm, LLC/Kushner
Block 23, Lot 5
300 Douglas Road
Front Yard Setback Variance

Engineer Steve Bolio reviewed for the Board the completeness items identified in the Ferriero Engineering letter dated September 25, 2020. Based on the scope of the application, Engineer Bolio recommended waivers for the items identified as missing and opined that the application could be deemed complete and the Board could proceed with the public hearing subject to the waivers being granted.

Councilwoman Tweedie made a motion to grant the waivers as set forth in the letter and deem the application complete. Vice Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call:

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

Those Opposed: None

Attorney Victoria Britton, was present on behalf of the applicants/owners Laura Kushner and Elliott Rosenstein, Laurel Stone Farm, LLC. The variance request was for a front yard setback variance for the installation of an emergency standby generator for use when power is lost due to storms. Ms. Britton went on to explain that the installation of the generator will allow Laurel Stone Farm to continue to operate when utilities are temporarily lost due to weather conditions. The generator, if approved, will allow the owners to run the following: the well, water pump (for the residents and farm animals), refrigerators and freezers for medication and food, the furnace to prevent freezing pipes in the winter and allow the residents of the home to work from home when necessary (some of whom are front line healthcare workers). Ms. Britton explained that the owners currently have a gas powered portable generator but it has become more difficult to operate as they increase in age. The applicant sought a front yard setback variance pursuant to N.J.S.A. 40:55D-70(c) 1, a hardship variance based on the shape of the property and the location of the existing historical home. The applicable zoning requirements require a 200 foot setback, however a 70 foot setback was proposed. The location of the existing home is in the southwest corner of the property and the generator is proposed in a location that is in close proximity to the existing gas and electrical lines and near the electrical panel in the basement; tie-ins can be appropriately made with ease and without additional piping. The area of the proposed generator is screened by existing plantings and fencing. Locating the generator in a conforming location would disturb the animals and would be closer to the neighbor to the west; the proposed location of the generator is over 200 feet from the neighboring homes. Ms. Britton noted that the application also satisfies the criteria set forth in N.J.S.A. 40:55D-70(c) 2 as several purposes of the Municipal Land Use Law (MLUL) would be advanced by deviation from the zoning ordinance without any detriment to the public good. Specifically, installation of a standby generator promotes subsection b. and g. of the MLUL.

Laura Kushner and Elliot Rosenstein, owners/applicants were present and sworn in by Attorney Rubright. When asked by Ms. Britton why the generator was proposed in the location shown on the plans, Mrs. Kushner explained that the proposed location contains the electrical and gas lines and the area is buffered by existing (heavy) vegetation and fencing. Addressing Planner Banisch's report, Mrs. Kushner explained that a conforming location would site the generator in the pasture and would make it difficult to run the utilities. When asked by Attorney Rubright if the unit will test in accordance with the manufacturer's specifications, Mrs. Kushner responded in the positive. Councilwoman Tweedie noted that most have a timer and will automatically test at a scheduled time. Chairman Lewis explained that the transfer switch has a timer that will need to be set for a certain time noting that the Board would likely ask that the unit test during a weekday to avoid disturbing the neighbors. When asked by Councilwoman Tweedie the direction of the exhaust, Mrs. Kushner explained that it will exhaust towards the opening between the bushes and the house (looking at the survey it will exhaust to the left). When asked by Mayor Vallone the distance to the closest neighbor, Mrs. Kushner responded over 200 feet. Chairman Lewis and Planner Banisch opined that the closest neighbor was approximately 185 feet.

When asked by Chairman Lewis about a sound attenuating cabinet, Engineer Bolio explained that the NJ State Standards apply to industrial or commercial use and the noise standards apply at a

residential property line. When asked, he opined that noise would not be nuisance based on the testimony provided. If the NJ State Standards were applicable, the maximum level would be 65 decibels at the property line during daytime hours and 50 decibels at night. When asked the duration of the testing time, the response was five (5) minutes, once a week. Attorney Rubright noted that the State regulations are waived during an emergency so the weekly testing is the only thing that should be considered. Planner Banisch spoke to the decibels based on the distance and noted that the proposed location would be at the daytime limit measured at the street and in compliance even though the noise regulations don't apply.

When asked by Chairman Lewis how the Board should deal with redevelopment of the lot in the future, Planner Banisch explained that the resolution could contain language to address the expiration of the variance should the house location move to a conforming location. Mr. Welsh recommended a condition that requires the owners to maintain the existing vegetation. There was discussion about supplemental vegetation but based on the testimony from Mrs. Kushner and the photos provided with the application, the Board did not feel supplemental vegetation was necessary. The applicants had no issue with the conditions proposed.

Planner Banisch noted that the applicants argued both C1 and C2 relief however he recommended the Board accept one of the arguments rather than both. Chairman Lewis opined that the hardship was generated by the pre-existing, non-conforming structure and lot layout created many years ago. Planner Banisch agreed that ample justification was provided by the applicant's argument about the non-conforming setback and the existing location of the utilities servicing the home. Mayor Vallone suggested incorporating language that the variance sunsets should the property be redeveloped and dead/diseased vegetation be replaced. When asked by Planner Banisch if the Zoning Officer should enforce the replanting, the Board agreed that the Zoning Officer should be the enforcer of the condition.

There being no additional questions or comments from the Board, Chairman Lewis opened the meeting up to the public at 7:52 p.m.

George Mellendick, 260 Lake Road, opined that 60 decibels was not an objectionable sound and noted that the industrial leaf blowers used are much louder.

Planner Banisch noted that the R-10 Zone contains a specific list of permitted accessory uses. He opined that, while the application was not a use variance, the applicant was requesting an accessory use not permitted in the zone. He recommended that the Board grant that relief along with the front yard setback variance. In conclusion, Planner Banisch noted that noise is a very sensitive issue and while many people are becoming accustomed to generators it was an application for putting a noise emitting generator within a required setback. Chairman Lewis suggested that the resolution include language that the variance was for a generator to be used during emergencies only and testing periods should be limited to Tuesday, Wednesday or Thursday, not to exceed 15 minutes.

There being no further questions or comments from the Board or public, Chairman Lewis closed the public portion of the meeting.

The conditions as outlined by Attorney Rubright were as follows:

1. The variance relief expires if the setback conditions change.
2. The vegetative buffer/hedgerow on the west side of the dwelling (between the generator and the public road) should be maintained in perpetuity. Any dead or diseased shrubs should be replaced as necessary.
3. The testing of the generator would be between the hours of 11 and 12 on Tuesday, Wednesday or Thursday for a period not to exceed 15 minutes.
4. The generator will be run only during emergencies.

There being no additional comments or questions, Councilwoman Tweedie made a motion to approve the variance with the conditions as outlined above. Vice Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call:

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

Those Opposed: None

EXTENSION REQUEST

- Request for Extension of Variance Approval – 210 Lake Road, B3 L8
E-mail dated 9/18/20 with attachments – Amy and Daniel Neu
(Please see e-mail dated September 18, 2020 from Mr. Neu)

Due to Mr. Neu's absence, the extension request was tabled.

CORRESPONDENCE

1. A letter dated September 17, 2020 from the Somerset County Planning Board re: Peapack Road Supportive Housing, Block 8, Lots 1.02 & 1.03/Peapack Road (CR512).
2. A letter dated September 21 from the Somerset County Planning Board re: Peapack road Supportive Housing, Block 8, Lots 1.02 and 1.03/Peapack Road (CR512).
3. A letter dated September 25, 2020 from Paul W. Ferriero, Borough Engineer re: Appl. No. PB2020-09, Laurel Stone Farm, LLC/Kushner, Block 23, Lot 5, 300 Douglas Road.
4. A letter dated October 1, 2020 from Susan R. Rubright re: 27 Route 2020 FH, LLC/Blackwater Trust Change of Occupancy Application – Fee and Escrow Delinquency.

Planner Banisch provided an update on the road right of way issue for the Matheny project and explained that the County re-examined their request and waived the requirements to suit the Borough's needs. Mayor Vallone explained that the initial requirements were substantial from a financial point of view. He thanked the County for their reconsideration and noted that the

relaxation of requirements would help maintain the integrity of Peapack Road and allow the affordable housing project to move forward.

ZONING UPDATE

- Zoning memo dated September 29, 2020 – Kimberly Coward

There were no comments or questions on the Zoning memo.

PUBLIC COMMENT

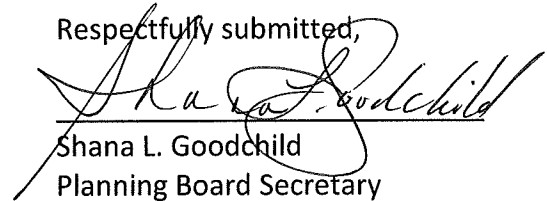
Chairman Lewis opened the meeting to the public at approximately 8:08 p.m.

There being no additional comments, Mr. Lewis closed the public comment portion of the meeting.

ADJOURNMENT

A motion was made by Councilwoman Tweedie, seconded by Vice Chairman Rochat and unanimously carried to adjourn the meeting at 8:09 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Shana L. Goodchild', is written over a horizontal line.

Shana L. Goodchild
Planning Board Secretary

Approved 11/2/20