

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
June 7, 2021
VIA REMOTE MEETING ACCESS ONLY

CALL TO ORDER

Chairman Rochat called the virtual meeting to order at 7:05 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 Tom Rochat, Vice Chairman Richard Rinzler, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Robert Lewis, Marilyn Layton, Jack Koury, Alt. #1 and Suzanne Humbert, Alt. #2

Also Present: Peter Henry, Board Attorney, David Banisch, Planner, Steve Bolio, Engineer and Shana L. Goodchild, Secretary

Absent: John Lawlor

There were approximately eleven (11) audience members present.

BILL LIST

- June 7, 2021

Vice Chairman Rinzler made a motion to approve the Bill List. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lewis, Ms. Layton, Mr. Koury, Alt. #1, Ms. Humbert, Alt. #2 and Chairman Rochat

Those Opposed: None

MINUTES

- May 3, 2021 Regular Meeting

Mayor Vallone made a motion to approve the minutes of the May 3, 2021 Regular Meeting for content and release with a minor correction noted by Attorney Henry. Ms. Layton seconded the motion. All were in favor.

RESOLUTIONS

- **Resolution No. 2021-20** – Appl. No. PB2021-08, Block 15, Lot 4, Suite 101 – Solskinn Therapeutic Massage, LLC

Vice Chairman Rinzler made a motion to approve the resolution as written. Ms. Layton seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Vallone, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: None

APPLICATION/COMPLETENESS DETERMINATION

Chairman Rochat read the following statement into the record:

A "Completeness" Review by the Board, though conducted at a public meeting, is not a "public hearing". The Board will be discussing requested Checklist waivers with the Applicant and with its own professionals, but there is no public participation in this process. The Board will determine whether to grant the requested waivers, taking its professionals' recommendations into account, and decide -- in accordance with the Municipal Land Use Law - whether the Application is sufficiently "complete" to proceed to a public hearing. It will be in that public hearing that members of the public will have opportunities to ask questions of witnesses and/or offer their own testimony or comments.

- Appl. No. PB2021-07
Pulte Homes of NJ, Limited Partnership/Residences at Overleigh
Block 5, Lot 4
220 Route 202
Prel./Final Subdivision and Site Plan and Variance

Nicole Magdziak, Esq. of the firm Day Pitney was present on behalf of the applicant who has submitted an application for a multi-family residential project titled The Residences at Overleigh. The application proposes a townhouse inclusionary age restricted development and in addition to that affordable housing units to be constructed in a multi-family residential apartment building. Also proposed are related site improvements including driveways, parking, lighting, landscaping, etc. The proposed development consists of 105 age-restricted townhouse units and the multi-family apartment building will consist of 29 affordable units; there are also walking paths, utilities and stormwater management improvements. In addition to site plan approval, the applicant is seeking subdivision approval to create individual lots for each townhouse and the multi-family building.

Ron Kennedy, Professional Engineer with Gladstone Design was present on behalf of the applicant and went through each of the items outlined in the May 19, 2021 letter prepared by Ferriero Engineering. The items specifically discussed were as follows:

Preliminary Checklist:

- Checklist Item #1 & 2 - have been provided and are no longer applicable.
- Checklist Item #7 & 12 - have been provided and are no longer applicable.

- Checklist Item #16 - tax lot numbers assigned by the Tax Assessor will be addressed post approval.
- Checklist Item #17 – the tract boundary is shown in a heavy line followed by two (2) dashes and a heavy line.
- Checklist Item #19 – exhibits will be provided during the public hearing with detailed aerial mapping of the neighborhood beyond 200 feet.
- Checklist Item #20 – a temporary sign detail for the sales trailer and marketing sign will be provided through exhibits and testimony.
- Checklist Item #23 – the detail (cut sheet) for the sign at the front entry will be provided through exhibits and testimony.
- Checklist Item #25 – existing natural features on and within 200 feet of the property will be shown through exhibits and testimony.
- Checklist Item #28 – existing watercourses on or adjacent to the property were discussed with reference to the Mine Brook adjacent to the property and its associated flood plain, which is delineated. In addition to that, freshwater wetlands exist along with riparian buffers ranging from 0-foot to 300-foot buffer. An application has been made to NJDEP to identify the wetlands and riparian buffers and the flood hazard area that encroaches on the southeast corner of the property. A flood hazard area verification and a Letter of Interpretation (LOI) have been received from NJDEP. To clarify the questions raised in the letter, Mr. Kennedy noted that the tributary won't be regulated from a flood hazard perspective but it will be regulated from a riparian buffer standpoint. The applicant will also be seeking approval from the NJDEP for wetlands crossing for some of the driveways. NJDEP will review all of the stormwater management under the new rules. No stream encroachment or flood hazard permits are required.
- Checklist Item #32 – the utility layout for the gas line will be provided upon receipt.
- Checklist Item #34 – road profile and section details on Route 202 were not required by NJDOT. Section details for internal roads can be provided during the hearing process.
- Checklist Item #36 – proposed utility easements will be provided once details are worked out with the utility companies.

Final Checklist:

- Checklist Item #'s1-6 – addressed above.
- Checklist Item #7 – certification by the Soil Conservation District will be provided after technical reviews are received by Ferriero Engineering, NJDEP and the public hearing process is finalized.
- Checklist Item #'s9 &10 – conditions have not been determined to address details of Section 406; details will be addressed at a later time.
- Checklist Item #11 – no phasing plan is proposed therefore the item is not applicable.
- Checklist Item #13 – letters from the utility companies will be provided to Ms. Goodchild.
- Checklist Item #14 – certification that all improvements were installed and performance guarantees posted will occur post approval.
- Checklist Item #15 - certification by the Borough Engineer that all improvements were installed properly will occur post approval.
- Checklist Item #16 – all outside agency approvals will be provided prior to construction. Some approvals have been received (LOI and Flood Hazard Area Verification).

- Checklist Item #17 – certification of the owner’s consent was provided.

Based on Mr. Kennedy’s explanation of each item, Mr. Bolio had no objection to the Board granting the waivers requested for completeness purposes.

For the benefit of the Board and public present, Attorney Henry explained that the Board would be granting waivers for completeness purposes and not permanently waiving the submission requirements. Mr. Henry went on to explain that once the public hearing date is set, the applicant will put on witnesses, after or during each witness’s testimony the Board and its professionals may ask questions or seek clarification. Once that has concluded, the Chairman will open the meeting up to the public for questions of the witness. Mr. Henry emphasized that once the applicant concludes with all of its witnesses and completes its case, the matter is again open to the public for purposes of making comments, offering opinions and giving sworn testimony. Members of the public can offer other witnesses to testify under oath. Finally, the Board will deliberate and a decision will be made. Mr. Henry concluded by stressing the importance of following the process as outlined.

Mayor Vallone thanked Mr. Henry for the outline and noted that it will be a multi-month process for the applicant to present its case and for the Board to receive public input.

Mr. Lewis made a motion to grant the waivers requested and deem the application complete. The motion was seconded by Councilwoman Tweedie. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Richard Rinzler, Mayor Paul Vallone, Councilwoman Tweedie, Robert Lewis, Marilyn Layton, Jack Koury, Alt. #1, Suzanne Humbert, Alt. #2 and Chairman Tom Rochat

Those Opposed: None

Ms. Magdziak requested, and the Board agreed, to tentatively schedule the public hearing for July 5, 2021. Ms. Magdziak agreed to coordinate off line with Ms. Goodchild to confirm the date; appropriate notice will be provided in connection with the application.

EXTENSION REQUEST

- Badr and Mouna Jebara – 199 Lake Road, Block 6, Lot 38
See letter dated May 12, 2021 and Res. No. PB2016-08

As a property owner within 200’, Councilwoman Tweedie recused herself from the discussion.

Luke Pontier, Esq. of the firm Day Pitney was present on behalf of the applicant. Mr. Pontier was present requesting an extension of a previous approval granted by Resolution No. PB2016-08 dated June 6, 2016 approving a variance application to allow for continued use and expansion of the pre-existing, non-conforming structures on the property. He explained that there are two (2) structures located on the property known as a security building and a cottage; both have previously and continuously been used as single-family residences. The security building is two (2) stories and two (2) sections that are jointed via an attic passageway; there is a driveway that extends from Lake Road between the two (2) sections of the building to a gravel parking lot that services both structures. At

the time of application, one (1) of the children of the applicant's family resided in the security building and another child of the applicant's family resided in the cottage. The 2016 application proposed to reconfigure the interior of the two (2) structures to better accommodate the permanent residential use. The 2016 resolution confirmed the Board's findings that the property was historically used as two (2) single family residences on one (1) lot and granted variances to permit that continued use and for the alternation of the two (2) pre-existing structures as well as variances to permit alterations to structures that are within the Borough's Scenic Corridor and Stream Corridor. Since the date of the approval, the applicants worked diligently through resolution compliance and moved toward construction of the approved improvements. Mr. Pontier pointed out that through its project engineer the applicant submitted revised plans to address the comments of the Board and its professionals which satisfied many of the conditions of approval. The applicant also recorded various easements and encumbrances that were required as conditions including a cross-access driveway easement, a deed restriction limiting use of the residences on the property, an access easement for a shared septic system and a deed of dedication to the Borough of Far Hills for road widening purposes. He noted that there are few conditions remaining which are confirmed by two (2) resolution compliance memoranda prepared by the Board Engineer and Planner dated June 30, 2017. Between 2017 and today the applicant was delayed by a search for a new contractor, personal health matters and the pandemic.

Timothy Jebara, was present on behalf of the applicant and was sworn in by Mr. Henry. Mr. Jebara noted his familiarity with the approval granted and confirmed the statements made by Mr. Pontier. Mr. Jebara explained that the plans were not detailed enough for construction so they had to find another architect and general contractor. The health of a family member deteriorated which required full attention on that family members care. Mr. Jebara confirmed that his family has contracted with an architect and general contractor and would like to proceed if the Board grants a retroactive extension and a one (1) year extension through June of 2022. When asked if that is sufficient time to complete resolution compliance and begin construction, Mr. Jebara responded in the positive.

Vice Chairman Rinzler expressed concern with past productivity and questioned if the applicant could gain resolution compliance in one (1) year. Mr. Jebara opined that they could get everything done in 6 months. When asked if both residences will be used by the family, Mr. Jebara responded in the positive and Mr. Pontier noted that the deed restriction requires that the residences be used only as single-family residences and in connection with the adjacent lot also owned by the family.

When asked by Mr. Banisch if the applicant was requesting a one (1) year extension to complete resolution compliance, finalize plans, secure permits and begin construction, Mr. Pontier responded in the positive. Mr. Banisch noted that there are very few items remaining for resolution compliance, with some of those items being very minor.

When asked by Mayor Vallone if there have been substantial changes due to the involvement of a new architect, Mr. Jebara responded in the negative but noted that the plans now reflect more structural details in the interior which was needed for construction purposes. Mayor Vallone expressed concern about what ultimately is a request to grant an extension for several years. Mr. Henry noted that the time limit set by the Borough ordinance is not one that encompasses the period of construction. Mr. Lewis noted that resolution compliance, building and permitting is a very long process and can sometimes take years, even without family emergencies and pandemics. While he wished that the applicant would have returned to the Board sooner, Mr. Lewis opined that the Board has will continue

to see these requests and suggested that the Board change how it views the requests if a pattern continues.

Chairman Rochat referenced the correspondence between the applicant and the Board professionals and opined that the applicant should have been mindful of the deadline and the Board's time.

Mr. Pontier noted that the applicant was diligently pursuing resolution compliance until the health impacts of an immediate family member took a toll on the entire family.

When asked by Chairman Rochat to outline the remaining compliance items, Mr. Bolio noted the following:

- Condition #2. a proof that the right of way dedication was recorded,
- Condition #7 removing a label from the architectural plans,
- Condition #13 proof that the Board's Acknowledgement of Obligations form was signed and recorded
- Condition #15 payment of the NJ Non-residential development fee, if applicable

Chairman Rochat suggested a six (6) month extension to which Vice Chairman Rinzler agreed.

When asked by Mr. Lewis if resolution compliance could be satisfied and permits secured in six (6) months, Mr. Pontier responded in the positive.

Vice Chairman Rinzler made a motion to grant a six (6) month extension. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Richard Rinzler, Mayor Paul Vallone, Robert Lewis, Marilyn Layton, Jack Koury, Alt. #1, Suzanne Humbert, Alt. #2 and Chairman Tom Rochat

Those Opposed: None

Councilwoman Tweedie returned to the meeting at this time.

APPLICATION/PUBLIC HEARINGS

- Appl. No. PB2020-04
Lakehaus, LLC
Block 4, Lot 5
100 Lake Road
Use and Bulk Variances for Ground Mounted Solar

Ms. Goodchild noted that due to the absence of one (1) of the Board members the attorney for the applicant requested an adjournment of the public hearing to August 2, 2021. Mr. Henry noted that the attorney wanted the best opportunity to have seven (7) members to hear and vote on the

application since five (5) affirmative votes are needed for the variance relief. The applicant provided the Board with an extension of time to take action to August 3, 2021.

Discussion ensued regarding the scheduling of the Lakehaus, LLC hearing and Pulte Homes of NJ/Residences at Overleigh for future meeting dates and the options available to the Board which included allowing Lakehaus, LLC a set amount of time to present their application or splitting the time of the meeting between applicants.

Mr. Henry announced that the Lakehaus, LLC application was carried to August 2, 2021, 7 p.m. without further notice.

CORRESPONDENCE

1. A letter dated May 12, 2021 from Luke Pontier re: request for an extension of the variances granted pursuant to Res. No. PB2016-08, Block 6, Lot 38 – 199 Lake Road.
2. A letter dated May 14, 2021 from the Somerset County Planning Board re: Residences at Overleigh, Block 5, Lot 4/US Route 202.
3. A letter dated May 10, 2021 from Ryan Brownell, PE French & Parrello Assoc. re: NJDEP Flood Hazard Area Verification and Individual Permit Submission 8-10 Peapack Road, Block 13, Lots 2 & 3..
4. The NJ Planner March/April 2021 – Vol. 82, No. 2.
5. A letter dated May 25, 2021 re: Pulte Homes of NJ, Limited Partnership/Residences at Overleigh, Block 5, Lot 4.
6. A letter dated May 19, 2021 from Ferriero Engineering re: Pulte Homes of NJ, Limited Partnership/Residences at Overleigh, Block 5, Lot 4.
7. A letter dated June 2, 2021 from Ferriero Engineering re: Lakehaus, LLC, Block 4, Lot 5, 100 Lake Road.

ZONING UPDATE

- Zoning memo dated May 24, 2021 – Kimberly Coward

There were no comments on the zoning update.

PUBLIC COMMENT

Skip Schwester, 410 Lake Road referenced the Pulte Homes of NJ/Residences at Overleigh application and asked if the roads will be private or public. Based on the plans submitted, Mr. Bolio believed that they would not be dedicated to the Borough and would not be public roads. Mr. Henry advised that the Board should not get into the merits of the application since it is not yet before the Board for public hearing. When Mr. Schwester asked what the Board intends to do with the construction phasing, Mr. Henry again stressed the need to hold all questions and comments about a pending application for the public hearing. Related to the Jebara extension, Mr. Schwester asked for clarification regarding the widening of the roadway to which Mr. Henry explained that the applicant was required to grant a dedication for road widening purposes which may or may not happen.

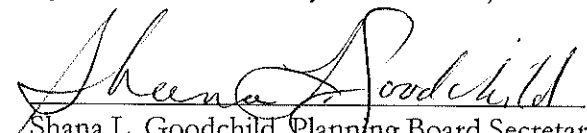
George Mellendick, 260 Lake Road, asked if an outline of the Pulte Homes of NJ/Residences at Overleigh presentation would be available. Mr. Henry explained that the applicant is not required to produce an outline however the attorney for the applicant very often will lay out how the case will be presented and who the witnesses will be that will provide testimony. Mr. Henry again outlined when questions should be asked and when the Board will hear comments. Dr. Mellendick expressed concern that the Planning Board and Borough Council would not have enough time to review the application material by the July 5, 2021 public hearing. Mr. Henry explained that the applicant is ready to proceed and the process will take time however there is a time limit under the Municipal Land Use Law (MLUL) for a decision to be reached. If the application takes more time, the applicant will need to grant the Board additional time for a decision.

Janine Silberg, 90 Hidden Valley Road, referenced the Pulte Homes of NJ/Residences at Overleigh application and asked if the impact on Route 202, Lake Road and the surrounding area was considered. Mr. Henry again asked the Board to avoid discussing the merits of the application when the applicant is not before the Board for public hearing. Chairman Rochat suggested to Ms. Silberg that she ask the question of the applicant's witness during the public hearing. When asked how the public will be notified, Mr. Henry explained that the applicant is scheduled to begin the hearing on July 5, 2021. When asked if there will be any special notice to property owners other than the required legal notice, Mr. Henry confirmed that the legal notice will be provided and the Mayor has requested that the Borough residents be kept apprised of the public hearing schedule on the Borough website.

There being no additional public comments, Chairman Rochat closed the public participation portion of the meeting.

ADJOURNMENT

Motion by Vice Chairman Rinzler, seconded by Ms. Layton and unanimously carried to adjourn the meeting at 9:02 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 7/5/21