

**BOROUGH OF FAR HILLS**  
Planning Board Regular Meeting  
**MINUTES**  
April 4, 2022  
VIA REMOTE MEETING ACCESS ONLY

**CALL TO ORDER**

Chairman Rochat called the virtual meeting to order at 7:03 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, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Vice Chairman Richard Rinzler, John Lawlor, Marilyn Layton, Jack Koury and Suzanne Humbert, Alt. #1

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

Absent: Robert Lewis

There were approximately six (6) audience members present.

**BILL LIST**

- April 4, 2022

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: Mayor Paul Vallone, Councilwoman Sheila Tweedie, Vice Chairman Richard Rinzler, John Lawlor, Marilyn Layton, Jack Koury, Suzanne Humbert, Alt. #1 and Chairman Tom Rochat

Those Opposed: None

**MINUTES**

- March 7, 2022 Regular Meeting

Vice Chairman Rinzler made a motion to approve the minutes of the March 7, 2022 Regular Meeting for content and release. Ms. Layton seconded the motion. All were in favor.

**PUBLIC COMMENT**

There was no public comment.

## APPLICATION/PUBLIC HEARING TO BE CARRIED TO MAY 2, 2022

- Appl. No. PB2021-20  
Chateau De Fleur, LLC  
Block 4, Lot 7  
66 Lake Road  
Height Variance

Ms. Goodchild announced that the above referenced application would not be heard and that new legal notice would be provided by the applicant.

## RESOLUTIONS

- **Resolution No. 2022-15** – Hans Clothier, LLC, Block 15, Lot 1.01 Suite No. 2  
*Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Koury, Mr. Lawlor and Chairman Rochat*

Vice Chairman Rinzler made a motion to approve the resolution with a minor correction on page one (1). Mayor Vallone seconded the motion. The motion carried by the following roll call vote:

### Roll Call Vote:

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

Those Opposed: None

- **Resolution No. 2022-16** – ECM Partners, Inc. dba Advisors + Consultants Block 15, Lot 1.01 Suite No. 13A (Office No. 9)  
*Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Koury, Mr. Lawlor and Chairman Rochat*

Vice Chairman Rinzler made a motion to approve the resolution as written. Mayor Vallone seconded the motion. The motion carried by the following roll call vote:

### Roll Call Vote:

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

Those Opposed: None

- **Resolution No. 2022-17** – Stevens & Berger, LLC, Block 15, Lot 1.01 Suite No. 9  
*Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Koury, Mr. Lawlor and Chairman Rochat*

Mr. Koury made a motion to approve the resolution as written. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**APPLICATIONS/PUBLIC HEARINGS**

- Appl. No. PB2020-04  
Lakehaus, LLC  
Block 4, Lot 5  
100 Lake Road  
Use and Bulk Variances for Ground Mounted Solar  
*Time for Decision Deadline – 4/30/22*

Councilwoman Tweedie recused herself from the meeting at this time.

Frederick Zelley, Attorney on behalf of the applicant was present. Attorney Linnus reminded the Board that the application, at one (1) time, included variance relief for two (2) ground mounted solar arrays requiring both bulk and use variances. The public hearings began in January and there was testimony and the matter was concluded in February. The applicant requires more time to amend its solar portion of the application and requested to bifurcate the application and have the Planning Board take action on the bulk variances sought for a variety of accessory structures, all but one (1) existed at the time the applicant purchased the property; the applicant agreed to extend the time for the total application through June 30, 2022. The applicant prepared and submitted a new plan showing only the relief sought this evening and removed the solar panels which will be dealt with at a later date. Mr. Linnus opined that the applicant would need to apply for an amended application for the solar relief. Mr. Zelley agreed that the applicant would be required to file an amended application and re-notice. When asked if he agreed that a new time period would begin upon the filing of an amended application, Mr. Zelley agreed.

Mr. Zelley clarified that the revised plans show the significant vegetative plantings and the removal of all elements of the ground mounted solar arrays. Mr. Zelley summarized by stating that all of the features at issue (play area, raised garden, portion of the pool patio, generator pad and chicken coop) were present when the applicant purchased the property. The tree house was installed by the applicant under bad advice provided to them by a professional tree house builder who instructed them that permits were not required. Mr. Zelley noted that all of the variances could be justified under either a C-1 or C-2 analysis and he provided support of that relief noting the existing location and orientation of the home, swimming pool and barn which dictates the logical location of the accessory structures requiring relief. He noted that the generator, chicken coop and edge of the swimming pool patio are all within four (4) feet of being compliant with the 100-foot setback requirement making the deviation de minimis. The tree house was installed without the knowledge that it had to conform with setbacks. The treehouse requires a tree to support it which is a physical feature uniquely affecting the property. The current location of the treehouse sits further from the roadway and is not a detriment to the neighborhood. Mr. Zelley noted that the relief could be granted under the C-2 analysis with several

of the purposes of the Municipal Land Use Law (MLUL) being satisfied (C, I and J). Mr. Zelley opined that the purpose of the rear yard setback was to ensure that there would be 200 feet between structures; in this case there is approximately 500 feet to the closest neighbor's structure.

Mr. Banisch agreed that there was limited area within the required setbacks for the accessory structures to be placed behind the dwelling; most of the features requiring relief belong behind the principal structure and should not be visible from the public traveled way. Mr. Banisch outlined the relief required and opined that the hardship argument was more persuasive than the benefits outweighing the potential detriments. Mr. Banisch asked if Mr. Zelley discussed with his client the condition regarding removal of the treehouse in the future. Mr. Zelley noted that his client would agree to remove the treehouse when it is no longer in use, if it falls into a state of disrepair or when they sell the property.

Mayor Vallone found fault with Mr. Zelley's comments that the treehouse was a benefit to Far Hills and opined that the owner of the property is responsible for what is constructed on their property; he recommended that the treehouse be removed. Mr. Zelley clarified that his argument was not that the treehouse was a benefit but rather its location in the rear of the property is a benefit. Mr. Zelley explained that the treehouse could be located in a compliant location in the middle of the property but would be much more visible to the public. Mayor Vallone opined that the treehouse was not a permitted structure to which Mr. Zelley disagreed.

When asked by Vice Chairman Rinzler if his testimony was that the accessory structures described are typical for single family homes, Mr. Zelley responded in the positive and went on to say that they are typical in rural areas and part of the bucolic nature of Lake Road.

Mr. Banisch noted that the benefits accrue by the advancement of one (1) or more purposes of the MLUL and Mr. Zelley again reviewed purposes C, I and J of the MLUL and opined that the existing locations are more appropriate than compliant locations.

When asked by Chairman Roachat if a treehouse is a legal structure, Mr. Zelley noted that no argument had been made by the Zoning Officer or other Borough Official. Mayor Vallone opined that the treehouse should not exist at all because it was built without permits and without the knowledge of the Planning Board.

Mr. Bolio referred to his memo dated March 29, 2022 and addressed comment number 6 requiring a right of way dedication via an easement subject to approval by the Borough Attorney. Mr. Zelley had not objection to the condition recommended.

There being no questions by the Board, Chairman Roachat opened the meeting up to the public.

George Mellendick, Lake Road was present and opined that the treehouse was an attractive structure that blends well with the architecture of the house. He suggested that the Board grant the relief requested and voiced his support of the application.

Lee Pressler, Lake Road was present and pointed out that he was most impacted by the treehouse and he and his wife love it and fully support the relief needed.

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

Chairman Rochat outlined the various options before the Board related to the treehouse which included removing the treehouse if the house is sold, removal if it falls into a state of disrepair or removal immediately. When asked by Vice Chairman Rinzier if the treehouse had been inspected for structural integrity, Mr. Zelley noted that it was constructed by a company that specializes in treehouses but agreed to an inspection for safety. Mayor Vallone suggested requiring the builders of the treehouse to appear before the Planning Board to explain why they didn't follow the rules.

A lengthy discussion ensued regarding whether the treehouse was a permitted use and what building codes would apply. Mr. Zelley opined that the questions were for the Zoning Officer and Construction Official rather than the Planning Board. He also opined that if it was not a permitted use the Board Planner would have raised it in his report as a use variance. Mr. Banisch noted that an accessory structure is one that is usual and customary and subordinate to the principal use of the property. He opined that the Board could interpret its own ordinance and determine if the treehouse meets those criteria; Mr. Linnus agreed with Mr. Banisch's interpretation. Mr. Banisch went on to note that the construction code would likely not address temporary occupancy structures such as a treehouse and suggested that the Board make a decision mindful of the public health, safety and general welfare. Mr. Zelley had no objection to Mr. Banisch's comments.

Mr. Lawlor agreed with Mayor Vallone's suggestion of requiring the treehouse builders to testify. Mr. Zelley expressed concern with the potential request noting that the builders are out of state and it would be a burden on the applicant to force the contractor to attend the meeting. A brief discussion ensued regarding potential fines by the Borough Council.

When Mr. Linnus questioned why no testimony was provided regarding a treehouse being a permitted use, Mr. Zelley again noted that it was not suggested by any Board professional that it was not a permitted accessory use to the single-family home.

Mr. Zelley requested a brief recess at 8:06 p.m.

Mr. Zelley returned to the meeting at 8:08 p.m.

For clarification, Mr. Linnus directed the Board to Mr. Banisch's report dated April 4, 2022 which recites the nine (9) bulk variances requested. He outlined several ways to vote including voting on each variance or separating out the treehouse and chicken coup. Mr. Banisch clarified that 8.a i., ii. and iii. require front setback variances and the remainder require side yard setback variances.

Mr. Zelley requested that the variances be considered individually or all of the variances together with the exception of the treehouse.

Referring to page 2 of Mr. Banisch's April 4, 2022 Memorandum the Board voted as follows:

**Pool Cabana** – Chairman Rochat made a motion to approve. Mr. Lawlor seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Slate Walks/Concrete** – Mr. Koury made a motion to approve. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Frame Shed** – Mr. Koury made a motion to approve. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Play Area** – Mr. Koury made a motion to approve. Chairman Rochat seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Gravel Raised Garden** – Mr. Koury made a motion to approve. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Generator** – Mr. Koury made a motion to approve. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Chicken Coop on Brick pad** – Mr. Koury made a motion to approve. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Pool Patio** – Mr. Koury made a motion to approve. Vice Chairman Rinzler seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Treehouse** – Mr. Koury made a motion to approve with the following conditions: 1) the treehouse will be inspected for structural integrity by the Borough Construction office, 2) the treehouse will be maintained and not fall into a state of disrepair, 3) removal of the treehouse if the tree dies, and 4) removal of treehouse when the applicant sells the property. Ms. Layton seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Lawlor, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: Vice Chairman Rinzler

It was noted by Mr. Banisch that the Board should place a condition in the resolution requiring either a deed restriction related to the treehouse conditions or recording of the resolution with the County Clerk.

## **CORRESPONDENCE**

1. A letter dated March 18, 2022 from Somerset – Union Soil Conservation District re: Block 19, Lot 16.
2. Memorandum dated March 4, 2022 from County of Somerset Planning Board re: Somerset County Preservation Plan Public Hearing Notice.
3. A letter dated March 18, 2022 from Ferriero Engineering re: Chateau De Fleur Variance, Block 4, Lot 7.
4. A letter dated March 29, 2022 from Ferriero Engineering re: Lakehaus, LLC Variance, Block 4, Lot 5.
5. A letter dated March 21, 2022 from Frederick Zelley re: Lakehaus, LLC Block 4, Lot 5.
6. The NJ Planner, January/February 2022 Vol. 83, No. 1.

## **ZONING UPDATE**

- Zoning memo dated March 29, 2022 – Kimberly Coward

## **ADJOURNMENT**

Motion by Vice Chairman Rinzier, seconded by Ms. Layton and unanimously carried to adjourn the meeting at 8:24 p.m.

  
Shana L. Goodchild, Planning Board Secretary

**APPROVED 5/2/22**