

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
September 6, 2022

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.

Chairman Rochat expressed his appreciation to everyone for their cooperation during the virtual meeting process.

ROLL CALL:

Present: Chairman Tom Rochat, Vice Chairman Robert Lewis, Mayor David Karner, Suzanne Humbert and Andrea Harvey, Alt. #1

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

Absent: Councilwoman Sheila Tweedie, John Lawlor, Marilyn Layton and Jack Koury

There were approximately thirteen (13) audience members present.

APPOINTMENTS/OATHS OF OFFICE

Board Attorney Frank Linnus administered the Oaths of Office for the following appointed Board members:

- Suzanne Humbert (Class IV) 12/31/24
- Andrea Harvey (Class I - Alt. #1) 12/31/22

ELECTION OF OFFICER

- Vice Chairperson

Mayor Karner nominated Robert Lewis for Vice Chairman, seconded by Chairman Rochat. There being no additional nominations, a single ballot was cast for Mr. Lewis to serve the remainder of 2022 as the Planning Board Vice Chairman. The nomination was approved by the following roll call vote:

Roll Call Vote:

Those in Favor: Tom Rochat, Mayor David Karner, Robert Lewis, Suzanne Humbert and Andrea Harvey, Alt. #1

Those Opposed: None

BILL LIST

- September 6, 2022

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

Roll Call Vote

Those in Favor: Vice Chairman Lewis, Mayor David Karner, Suzanne Humbert, Andrea Harvey, Alt. #1 and Chairman Tom Rochat

Those Opposed: None

MINUTES

- August 1, 2022 Regular Meeting

Mayor Karner made a motion to approve the minutes of the August 1, 2022 Regular Meeting for content and release. Vice Chairman Lewis seconded the motion. All were in favor.

PUBLIC COMMENT

Skip Schwester, Lake Road was present and again questioned why the public was unable to comment on agenda items. Chairman Rochat explained that during application public hearings the public is provided the opportunity to ask questions and make comments on those specific matters. Mayor Karner added that public comment at the beginning of the meeting is for general comments. Mr. Schwester thanked the Board for clarifying the process.

There being no additional public comment, Mayor Karner made a motion to close public comment. Mr. Koury seconded the motion. All were in favor.

RESOLUTIONS

- **Resolution No. 2022-25** – Mahoney, Block 5, Lot 6.03
Those eligible: Mr. Lewis, Mr. Koury, Ms. Layton, Ms. Humbert and Chairman Rochat

Mr. Linnus prefaced the vote by noting that the resolution memorialized the Board's action to deny the application.

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

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Ms. Humbert and Chairman Rochat

Those Opposed: None

APPLICATIONS/PUBLIC HEARINGS

It was noted that Ms. Humbert resides within 200 feet of Appl. No.'s PB2022-11 and PB2022-12 and therefore the applications were tabled and rescheduled for October when a quorum of the Board is present.

- Appl. No. PB2022-11
Smile for Smile, LLC
Block 15, Lot 1.01
49 Route 202, Suite 13A (Office #1 & 2) – subscription application
Change of Use/Occupancy/Site Plan Waiver
- Appl. No. PB2022-12
Wendy von Fabrice
Block 15, Lot 1.01
49 Route 202, Suite 13A (Office #5) – subscription application
Change of Use/Occupancy/Site Plan Waiver
- Appl. No. PB2022-13
Databook Labs, Inc.
Block 15, Lot 5
45 Route 202, Suite #202
Change of Use/Occupancy/Site Plan Waiver

Anthony Melillo was present and was sworn in by Mr. Linnus. Mr. Melillo explained that three (3) of the four (4) suites are occupied and the last is for Steven Russell, applicant, who will use the space for remote working space. As a single occupant with no employees only one (1) parking space is required; decaling will be placed on the existing monument sign and on the interior of the building and no site modifications are proposed. Hours of operation will be 8 a.m. to 5 p.m., Monday through Friday. When asked by Mr. Banisch the size of the space, Mr. Melillo responded 93 sq. ft. Mr. Melillo was asked to clarify the square footage and resubmit the application material with the correct square footage (the application material reads 81 sq. ft). When asked about the use, Mr. Melillo explained that the applicant is a marketing executive and works for a company in Palo Alto, California. Mr. Banisch noted that the request was for a change of use and site plan waiver application, the use is permitted in the zone and adequate parking is provided. When asked if there is any increase in sign area, Mr. Melillo responded in the negative. There being no further questions from the Board, Chairman Rochat opened the meeting up to the public for questions or comments. There being none, Chairman Rochat closed the public questions/comment period to the public.

Vice Chairman Lewis made a motion to approve the application. The motion was seconded by Ms. Humbert. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor:	Vice Chairman Lewis, Mayor Karner, Ms. Humbert, Ms. Harvey and Chairman Rochat
Those Opposed:	None

Mr. Melillo noted that one of his other tenants would like to apply for a sign variance to add another sign at 27 Route 202 and he requested guidance on the application process. Mr. Banisch recommended submitting an application for a sign variance identifying the maximum permitted signs (or what was permitted under the site plan approval) and the extent of additional signage being sought; waivers could be sought for anything not relevant to the sign variance. When asked if a Planner is required, Mr. Banisch indicated that on occasion the Board has allowed an applicant to pursue a sign variance without a Planner however, if the applicant is a corporation an attorney is required.

- Appl. No. PB2022-08 – **ADJOURNED TO 10/3/22 WITH NEW NOTICE**
Gulbrandsen
Block 6, Lot 6 & 7
117 & 139 Sunnybranch Road
Lot Line Adjustment/Use and Bulk Variances
Action Deadline – 11/29/22

Chairman Rochat announced that the application would be adjourned to October 3, 2022 with new notice provided by the applicant.

- Appl. No. PB2022-09
Perry
Block 7, Lot 3
132 Peapack Road
Front and Side Yard Setback Variances
Action Deadline – 11/29/22

Emily and William Perry, 132 Peapack Road owners/applicants were present and sworn in by Mr. Linnus. Mrs. Perry explained that they applied for variances to construct an addition to their home to provide more room for their two (2) school aged children. The addition would not expand the existing footprint but does add a second story and a front porch. When asked by Mr. Banisch if the design option presented is the only option available, Mr. Perry responded in the positive. When asked by Vice Chairman Lewis if there is a basement and, if so, if there has been any issue with water, Mr. Perry responded in the positive and noted that they have experienced water in the basement twice during hurricane events. When asked if the yard gets water, Mr. Perry responded in the positive but noted that it dissipates quickly. When asked by Mr. Banisch where the water drains, Mr. Perry explained that it drains into a drainage system on the opposite side of the house and then into the County drainage system. There being no further questions by the Board, Chairman Rochat opened the meeting up to questions from the public. There being no questions, that portion of the public hearing was closed.

Daniel Encin, Mendham Design Architects, 27 East Main Street, Mendham, was present, provided his professional qualifications and sworn in by Mr. Linnus. Mr. Encin presented **Exhibit A-1** identified as sheet A-1 of the architectural plans with a revision date of 9-1-22; the revision corrected a typographical error in the zoning chart in regard to the area required. Referring to the site plan, Mr. Encin explained that the house is a pre-existing single story ranch style residence located in the R-10 District. The size of the property is 1.585 acres in a 10 acre zone and is therefore a non-conforming, pre-existing lot with a pre-existing non-conforming structure; any improvements to the house requires variance relief. The proposed improvements to the house include a second floor addition across the 'L' shape of the house in the rear (furthest from the street) to create additional bedroom space. The

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existing stone patio in the front of the house will be replaced with a raised wooden covered porch creating better overall curb appeal. Referring to a photograph submitted as part of the application, Mr. Encin described the photo as a view of the house as taken from Peapack Road. He noted that nothing proposed intensifies the existing non-conforming setbacks. When asked if an additional overhang or gutter would increase the non-conformity, Mr. Encin opined that an additional six (6) inches would be requested for the side setback (total setback variance requested would be 63.5 feet). Referring to sheet A-3 of the original plans submitted, Mr. Encin described the proposed front and side elevation as viewed from the street. When asked the depth of the proposed porch, Mr. Encin responded 7.5 feet. He went on to explain that there is minimal disturbance and a small increase in the impervious coverage for a front walkway from the driveway to the porch. When asked if they remain under the 10% impervious coverage for the R-10 Zone, Mr. Encin responded in the positive. He added that the house is served by public sewer and therefore the bedroom count does not impact sewage needs. When asked by Mayor Karner the footing to be used for the proposed porch, Mr. Encin responded 8" concrete block with the bottom of the footing 42 inches below the level of the soil. The side of the porch is open to allow air and water flow to avoid moisture or rotting issues on the wood deck. When asked by Vice Chairman Lewis the elevation of the finished first floor, Mr. Encin opined between 3 and 3 ½ feet above grade.

When asked by Mr. Bolio to provide testimony with respect to the Borough's Flood Damage Protection Ordinance and if the project meets the definition of Substantial Improvement. Mr. Encin opined that the project did not meet that definition. When asked if he could provide evidence of that to the Borough's Flood Prevention Officer, Mr. Encin responded in the positive. Mr. Bolio explained that if the project qualified as a substantial improvement the basement would need to be filled in and the first-floor elevation raised. Mr. Bolio noted that because there is work within the floodway a variance is required from the Planning Board. He noted that the review letter from his office requested additional information to determine at what elevation the flood level encroaches onto the house. Referring to Sheet A-3, Mr. Encin noted that the proposed porch is open and would not impede water flow in the event of flood waters reaching the porch area. When asked if the construction drawing would provide a better detail of the openness of the porch, Mr. Encin responded in the positive. When asked by Chairman Rochat if a slab is proposed, Mr. Encin responded in the negative. When asked by Vice Chairman Lewis if the porch is the only area where there is an expansion of the footprint, Mr. Encin responded in the positive but noted that there is no additional impervious coverage since the area is currently a stone patio. When asked by Mr. Bolio if there is any concern with hydrostatic pressure, Mr. Encin responded in the negative. When asked by Chairman Rochat if there is any proposed tree removal, Mr. Encin responded in the negative.

When asked by Mr. Bolio if they will provide the additional engineering information requested related to the elevation level and the floodplain, Mr. Encin responded in the positive but noted that the applicant did not want to go to the expense of engaging additional professionals if the variance was not going to be approved. When asked about the bedroom count, Mr. Encin explained that there are three (3) existing and four (4) proposed. As a condition of approval, Mr. Bolio recommended that the applicant consult with the Borough Sewer Consultant to confirm that there is no increase in flow to the sewer system. Also, as a condition of approval, the applicant should provide the area within the right of way.

Vice Chairman Lewis noted the NJDEP regulation changes and asked if the project will be impacted.

When asked if the applicant would agree to comply with the June 23, 2022 engineering report from Ferriero Engineering, Mr. Encin responded in the positive.

Mr. Banisch noted that he called out some existing non-conformities in his letter, those non-conformities include a shed, a couple of decks and walkways which are de minimis in terms of their impact. He suggested that the Board acknowledge those conditions and grant variance relief for the side yard setback; the setbacks dimensions should be provided to the Board so that they can be included in the resolution. Mr. Banisch went on to note that the lot is undersized and irregularly shaped which are exceptional and extraordinary conditions that meet the positive criteria test for a hardship variance to be granted. The second prong of the variance criterion is whether the relief can be granted without substantial impairment to the zone plan; this project does not impair the zone plan. Chairman Rochat noted that the project would be an aesthetic improvement to the neighborhood.

A lengthy discussion ensued regarding the floodway and the additional information needed for the Board to render a decision. In conclusion, it was the consensus of the Board to require the applicant to consult with the Flood Prevention Officer and perform a limited topographic survey to confirm the finished first floor elevation prior to voting on the application.

There being no additional questions from the Board, Chairman Rochat opened the meeting up to the public for questions of the witness.

Paul Vallone, Sunnybranch Road had no objection to the relief being granted. He noted that there are substantial variances required and he opined it should be clear that if relief is granted they are specific to the subject property and not other properties in the R-10 Zone.

George Mellendick, Lake Road voiced his support of the application and agreed with Dr. Vallone's statement. Dr. Mellendick opined that the Errico Acres project should have been scrutinized as much as the subject project.

Greg Kania, Peapack Road, voiced his support of the application and agreed with the comments made by the previous speakers. He substantiated the testimony provided that any water that gathers on the property dissipates quickly.

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

Additional clarification was provided to the applicant so that they could adequately address the questions by the Board at the next meeting.

Skip Schwester, Lake Road opined that the project would be treated differently if the lot was a vacant lot and a new house was proposed.

It was announced that the hearing would continue on October 3, 2022, 7 p.m., with no new notice, to allow the applicant time to provide additional information prior to the Board voting on the application.

SPECIAL QUESTION

1. Robustelli, Block 3, Lot 10 – Res. No. 2022-08 Modification of Condition of Approval

Mr. Banisch noted that the Robustelli's obtained relief for a substantial addition to their home on Lake Road. They have extensive wetland and stream corridor constraints on the lot and are working through their NJDEP approvals. They have requested approval to construct the following three (3) improvements that were approved by the Board and not impacted directly by the NJDEP approval: 1) the proposed wall and stone terrace, 2) a motor court to the rear, and 3) a relocated generator on the side of the house. Mr. Bolio noted that the wall and stone terrace would impact drainage so the recommendation would be to allow only the motor court and generator relocation at this time. Mr. Linnus noted that the Board could vote to allow the request without notice if the deviation is not substantial. On balance, Mr. Banisch opined that the improvements would not be categorized as substantial.

Because there were not enough members to vote, the question will be revisited in October.

Mr. Banisch noted that Raritan Valley Development Corporation received approvals from the NJDEP for construction in the flood hazard area for the affordable units on the corner of Demun and Peapack Roads. The residential first floor component that was approved by the Board was eliminated and the non-residential space will have apartments added above it; NJDEP will not permit the non-residential space to be converted to residential apartments. There were a total of six (6) low and moderate income rental units as part of the project. The same number of affordable housing units will remain by putting the affordable housing unit in the other structure that was part of the application. Mr. Banisch went on to explain that the project is a Borough subsidized approval, and the applicant would like to avoid the time and expense of returning for amended approval. Mr. Banisch explained that an amended plan must be prepared to demonstrate the NJDEP's approval along with notations on the final resolution compliance package noting the change. Mr. Linnus opined that it had to be handled by a notice for relief from a condition of approval so that it can be fully documented. Mr. Banisch agreed that he would advise the applicant to present a revised plan under notice of relief from a condition of approval.

EXTENSION REQUEST

- Appl. No. 2020-13
20 Lake Road, LLC
Block 4, Lot 9
20 Lake Road

Michael Brown, Attorney on behalf of the applicant was present and explained that they appeared on May 2, 2022 requesting an extension of approval which was granted. He went on to explain that there are some minor resolution compliance items that remain outstanding and therefore they are requesting an additional extension.

Paul Fox, Engineer on behalf of the applicant was present and sworn in by Mr. Linnus. Mr. Fox noted that revised plans were submitted in mid-July and deed descriptions were submitted to the Borough Attorney who offered to prepare the draft easements; all NJDEP permits have been received. The only outstanding items are the easements and review comments from Mr. Banisch's office. When asked by Mr. Lewis about the easements, Mr. Fox explained that there are three (3) easements required,

the right of way for Lake Road, a conservation easement related to the stream corridor and the scenic corridor easement. All have been added to the plan and the deed descriptions have been prepared. Mr. Bolio noted that the applicant has been diligently working towards resolution compliance and he recommended the granting of an extension. The consensus of the Board was to provide enough time for the applicant to gain resolution compliance without needing to return for another extension.

Mr. Brown brought up another issue related to a prior condition of approval involving the color of the retaining wall near the septic system. The resolution of approval contained a condition that required it to be compatible with the materials used on the existing home however, the applicant has requested that the color match the brown color of the existing retaining wall. Mr. Fox added that the stone on the existing house is mortar in stone which could not be constructed around the septic system; mortar and stone would require a perforated drainage pipe which is not conducive to the proximity of the system. Mr. Fox requested feedback from the Board regarding the use of a dried stack wall to match the existing dried stacked walls on site. Mr. Fox presented two (2) photographs showing the existing walls along with the existing façade of the house. When asked by Mr. Lewis where the walls will be placed, Mr. Fox noted that the walls will be constructed on two (2) sides of the septic mound. Mr. Banisch opined that the dried laid wall seemed appropriate and asked for confirmation that the resolution compliance package included details on the wall to which Mr. Fox responded in the positive. Mr. Linnus opined that Mr. Banisch could handle it as an administrative request and cover it in his resolution compliance letter.

There being no additional questions, Mayor Karner made a motion to approve an extension of six (6) months from September 6, 2022. Mr. Lewis seconded the motion.

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Karner, Ms. Humbert, Ms. Harvey and Chairman Rochat

Those Opposed: None

AUTHORIZATION TO CLOSE ESCROW

1. Laurel Stone Farm, LLC \$363.00

Mayor Karner made a motion to authorize the closing of the escrow account. Mr. Lewis seconded the motion.

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Karner, Ms. Humbert, Ms. Harvey and Chairman Rochat

Those Opposed: None

CORRESPONDENCE

1. Memorandum dated August 31, 2022 from David Banisch re: Gulbrandsen, Appl. No. 22-08, Block 6, Lots 6 & 7.

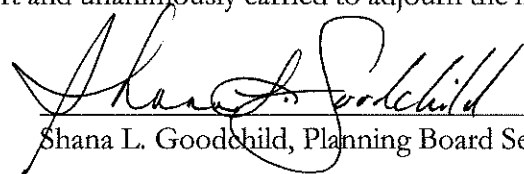
2. A letter dated August 22, 2022 from Natural Systems Utilities re: Notice Regarding TWA Application, NJPDES Permit #NJ0320382, Block 5, Lot 4.
3. Public Notice dated August, 2022 re: Robustelli Project Dwelling Addition, Block 3, Lot 10.

ZONING UPDATE

- Zoning memo dated August 30, 2022 – Kimberly Coward

ADJOURNMENT

Motion by Mayor Karner, seconded by Ms. Humbert and unanimously carried to adjourn the meeting at 9:16 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 10/3/22