

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
October 3, 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.

ROLL CALL:

Present: Chairman Tom Rochat, Vice Chairman Robert Lewis, Mayor David Karner, Councilwoman Sheila Tweedie, John Lawlor, Marilyn Layton, Jack Koury, Andrea Harvey, Alt. #1 and Thomas Swon, Alt. #2

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

Absent: Suzanne Humbert

There were approximately six (6) audience members present.

APPOINTMENTS/OATHS OF OFFICE

Board Attorney Frank Linnus administered the Oath of Office for the following appointed Board member:

- Thomas Swon (Class I - Alt. #2) 12/31/23

BILL LIST

- October 3, 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 Karner, Councilwoman Tweedie, Ms. Layton, Mr. Koury, Mr. Lawlor, Ms. Harvey, Alt. #1, Mr. Swon, Alt. #2 and Chairman Tom Rochat

Those Opposed: None

MINUTES

- September 6, 2022 Regular Meeting

Mayor Karner made a motion to approve the minutes of the September 6, 2022 Regular Meeting for content and release. Vice Chairman Lewis seconded the motion. All were in favor. Councilwoman Tweedie and Ms. Layton abstained.

PUBLIC COMMENT

George Mellendick, Lake Road was present and asked for clarification on 'next steps' for the Ericco Acres (Residence at Overleigh) project and the roll of the Planning Board in that process. Mayor Karner noted that there will be a conference call on Wednesday and Mr. Banisch clarified that the applicant is in the resolution compliance phase and will be addressing the conditions of the Board's approval. Once all conditions have been satisfied, Borough professionals will provide sign offs to allow the applicant to seek Zoning and Construction permit approvals. Mr. Banisch went on to explain that the only circumstance that would require the Planning Board's review would be any significant changes to the plan or deviation from a condition of approval. Dr. Mellendick noted that the public was advised the public would be afforded the opportunity to review the final documents prior to sign off. Mr. Banisch explained that all documents are filed with Ms. Goodchild and are a matter of public record. Dr. Mellendick reminded the Borough Council members and Planning Board that the public was informed that there would be public notice of the revised submission. Ms. Goodchild noted that she was not aware of a requirement for the public to receive notice of a resolution compliance submission. Dr. Mellendick agreed but noted that there was a promise made by the Borough Council. Mayor Karner explained that the public was promised transparency and he would let any interested party know when material is filed for resolution compliance. Mr. Bolio noted that a revised submission was made by the applicant in March but the review had not yet commenced.

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

RESOLUTION

- **Resolution No. 2022-26** – Databook Labs, Inc., Block 15, Lot 5
Those eligible: Vice Chairman Lewis, Mayor Karner, Ms. Humbert, Ms. Harvey and Chairman Rochat

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, Mayor Karner, Ms. Harvey and Chairman Rochat

Those Opposed: None

APPLICATIONS/PUBLIC HEARINGS

It was noted that Ms. Layton would be recused as she resides within 200 feet of Appl. No.'s PB2022-11 and PB2022-12.

- 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

Anthony Melillo was present and was sworn in by Mr. Linnus. Mr. Melillo explained that the application is for two (2) separate offices for the same use. The occupants, Melissa Defalco and George Amato, requested a one (1) year lease for office space for selection and marketing services for professionals (similar to Indeed for companies). Hours of operation will be from 6 a.m. to 6 p.m., Monday through Saturday. As a single occupant with no employees only one (1) parking space for each unit (Office #1 & #2) is required; no site modifications or signage are proposed.

There being no 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 question/comment period to the public.

Mayor Karner made a motion to approve the application. The motion was seconded by Councilwoman Tweedie. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Karner, Councilwoman Tweedie, Mr. Lawlor, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

- 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

Anthony Melillo was present and was reminded by Mr. Linnus that he remained under oath. Mr. Melillo explained that the occupant, Wendy von Fabrice, requested a one (1) year lease to use the space as a satellite office for her company which works in pharmaceutical marketing. Hours of operation will be from 6 a.m. to 6 p.m., Monday through Saturday. As a single occupant with no employees only one (1) parking space is required; no site modifications or signage are proposed. When asked by Mr. Banisch how many suites are occupied in the building (including the subject application) Mr. Melillo noted that all of the offices are occupied; an updated tenant list was provided to Ms. Goodchild. When asked by Mr. Banisch what occupancy looks like daily, Mr. Melillo explained some tenants are there on a daily basis and others less frequently; approx. 40% to 50% occupancy rate daily. There being no further questions from the Board, Chairman Rochat opened the meeting up to the public for questions or comments.

Skip Schwester, Lake Road asked if the occupants share a secretary or reception, Mr. Melillo responded in the negative.

There being no additional questions, Chairman Rochat closed the public questions/comment period to the public.

Mayor Karner made a motion to approve the application. The motion was seconded by Councilwoman Tweedie. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Karner, Councilwoman Tweedie, Mr. Lawlor, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

Mr. Melillo noted that the Databook Labs application that was heard at the September meeting contained an error in the application material which has since been corrected and submitted to Ms. Goodchild.

- Appl. No. PB2022-08 – **ADJOURNED TO 11/7/22 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 November 7, 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

Ms. Goodchild noted for the record that Councilwoman Tweedie listened to the recording of the September public hearing and signed the certification to be eligible to vote.

Mr. Linnus prefaced the hearing by noting that the Board held a public hearing in September and at the conclusion of the public hearing the Board and the professionals requested additional information from the applicant; that new information was submitted. The public hearing would be re-opened and questions and comments would be limited to the information presented.

Daniel Encin, Mendham Design Architects, 27 East Main Street, Mendham, was present and was reminded by Mr. Linnus that he remained under oath. Mr. Encin noted that the Board requested specific information at the previous hearing due to the property being located in the flood zone, that the request consisted of the flood elevation certificate, limited topography to establish a first floor elevation height and the height of the grades and contours coming out towards the street. In addition to that, information was provided to the Board Engineer to confirm that the project does not meet the definition of substantial improvement relative to the floodplain ordinance. Mr. Bolio confirmed that the information provided was reviewed by Paul Ferriero and he concurred with Mr. Encin's analysis that the project does not rise to the level of a substantial improvement. Mr. Encin outlined

several requirements for construction within the flood hazard zone and included the following specific points:

1. The only aspect of the proposed project within the flood hazard zone is the covered porch which will include a floor structure with a solid concrete foundation and will be anchored down and include concrete block with footings, which will extend 42" below grade. The porch will be open below to allow water and air flow and he indicated there was no concern with hydrostatic pressure and floatation as the improvements will be anchored; water will be able to flow around the sides and stairs of the covered porch.

When asked how long Mr. and Mrs. Perry have resided in the dwelling, Mr. Perry (still under oath) responded 12 years and noted that they had not experienced a flood event that inundated the first floor. When asked by Vice Chairman Lewis what flooding was witnessed during their ownership, Mrs. Perry opined two (2) feet below the documented flood level.

2. Mr. Encin testified there was no evidence that the existing house was moving, and he expressed no concern about hydrostatic pressure damaging the existing house. Testimony indicated the porch would be constructed of pressure treated wood, and the materials were meant to be outside and meant to be wet. Testimony indicated there was no susceptibility to the proposed second-floor addition to flood damage. The addition is above the 100-year FEMA flood elevation and will be constructed above and anchored to the existing first floor of the dwelling. Testimony was also provided that the property and the existing dwelling are located within the floodway and there are no alternative locations to construct the improvements.

Mr. Banisch opined that there was a significant aesthetic value that the proposed improvement contributes to the character of the Borough.

3. The proposed use is compatible with the existing use and other single-family homes located in the neighborhood. There will be no change to the existing use as it relates to the flood plain management ordinance. The construction is in accordance with standard practices with this type of development.
4. There will be no change to access the property for emergency vehicles and Mr. Encin indicated that safety would be enhanced with the construction of better steps to the porch.
5. There will be no change to the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and wave action. There will be no changes to existing utilities, or to the location of the furnace which is located within the basement.

Mr. Encin indicated that failure to grant the variance would result in an exceptional hardship to the applicant, as they would need to move to accommodate their needs for a larger dwelling. He added that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public.

Mr. Bolio was satisfied based on the information provided by the applicant and on the testimony addressing the flood damage prevention ordinance. He noted that there was another variance

identified in his review letter (Section 803.b.f.) and the testimony provided addresses that relief. Mr. Banisch agreed that the 1% deviation from that standard was not significant and was limited to the second-floor expansion (not an increase in the footprint within the flood area).

Mr. Banisch pointed out that his report identified a number of existing conditions that don't meet the setback requirements and noted that the lot is in the R-10 Zone and the standards are appropriate to a 10-acre lot. He opined that the variance relief should acknowledge the existing conditions which includes a walkway, a deck and a shed.

Mr. Bolio noted that any approval should be conditioned on approvals that maybe necessary from NJDEP. It was noted that it would also be acceptable if the applicant can procure a letter of 'no interest' from NJDEP or cite a section of the regulation that exempts the activity.

When asked by Chairman Rochat if the applicant's sustain damage to their furnace and hot water heater during floods, Mrs. Perry noted that they have only experienced water in the basement two (2) times during Hurricane Irene and Hurricane Ida and those utilities were replaced through a flood insurance claim.

Mr. Bolio recommended the following conditions of approval: 1) Letter of no-interest, approval or documentation to the satisfaction of the Borough professionals that wetland regulations are not applicable, 2) a substantial improvement analysis and, 3) construction plans subject to the approval of the floodplain manager.

Mr. Linnus noted that the variances include work within a floodway and setback relief for the existing conditions related to the shed, walkway and deck and recommended a condition of approval related to compliance with the Board professionals' reports. Mr. Banisch asked that the applicant provide the lot area minus the right of way area prior to the adoption of the resolution in November.

There being no additional questions from the Board, Chairman Rochat opened the meeting up to the public for questions of the witness. There being none, Chairman Rochat closed the public hearing.

Councilwoman Tweedie made a motion to approve the variances requested and as supplemented during the hearing subject to the conditions and agreements outlined. The motion was seconded by Mayor Karner. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

SPECIAL QUESTION

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

Mr. Linnus noted that the Robustelli's received approval subject to certain conditions and they have requested to construct a portion of their project prior to obtaining all outside agency approvals. It was determined in September that the improvements would be appropriate and would not be a

significant condition to waive therefore there was no notice required other than the Open Public Meetings Act required for the meeting. Mr. Linnus opined that the request by the applicant is more of an administrative review and approval. In light of the Board's sensitivity to construction commencing before all outstanding agency approvals are secured, the question was brought to the Board to determine if the Borough professionals could administratively authorize some of the activities to begin; they are outside of the regulated areas and include the re-location of a generator, the construction of a wall and motor court and landscaping improvements. The main component of the application was a substantial addition to the residential dwelling within regulated areas and those improvements will not commence until the proper permits and outside agency approvals are secured.

It was noted by Mr. Bolio that he was not in favor of allowing the applicant to proceed with the wall as the construction runs over the top of existing drywells. Mr. Banisch noted that the applicant's engineer felt that the plans did not correctly detail the locations of those features. Mr. Bolio indicated that if the applicant can demonstrate that the drywells are not beneath the proposed wall he would be amenable to allowing the improvements to commence.

It was the consensus of the Board that the Board Professionals could take whatever administrative action necessary to work with the applicant for improvements outside of the regulated areas.

CORRESPONDENCE

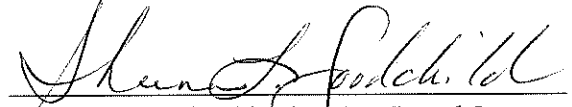
1. A copy of a letter dated September 27, 2022 from the Somerset-Union Soil Conservation District re: Robustelli Project Dwelling Addition, Block 3, Lot 10.
2. A copy of a letter dated September 2, 2022 from the Somerset-Union Soil Conservation District re: Chiusolo Residence, Block 4, Lot 9.
3. The NJ Planner, July/August, 2022 Vol. 83, No. 4.

ZONING UPDATE

- Zoning memo dated September 27, 2022 – Kimberly Coward

ADJOURNMENT

Motion by Councilwoman Tweedie, seconded by Chairman Rochat and unanimously carried to adjourn the meeting at 8:06 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 11/7/22