

**BOROUGH OF FAR HILLS**  
Planning Board Regular Meeting  
**MINUTES**  
November 7, 2022

**CALL TO ORDER**

Vice Chairman Lewis called the meeting to order at 7:00 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: Vice Chairman Robert Lewis, Mayor David Karner, Councilwoman Sheila Tweedie, John Lawlor, Jack Koury, Andrea Harvey, Alt. #1 and Thomas Swon, Alt. #2

Also Present: Kristen Seibold was present on behalf of Frank Linnus, Board Attorney, Steve Bolio, Borough Engineer, David Banisch, Planner and Samantha D'Antuono was present on behalf of Shana L. Goodchild, Secretary

Absent: Chairman Tom Rochat, Marilyn Layton and Suzanne Humbert

There were approximately twenty-five (25) audience members present.

**BILL LIST**

- October 3, 2022

Mayor Karner made a motion to approve the Bill List. Mr. Lawlor 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, Mr. Koury and Mr. Lawlor

Those Opposed: None

**MINUTES**

- October 3, 2022 Regular Meeting

Mayor Karner made a motion to approve the minutes of the October 3, 2022 Regular Meeting for content and release. Mr. Koury seconded the motion. All were in favor.

**PUBLIC COMMENT**

Mayor Karner made a motion to open the meeting for public comment. Mr. Koury seconded the motion. All were in favor.

Don Hewitt, 22 Dumont Road was present and unsure if he was addressing the correct body but noted that he made several inquiries regarding a deck being constructed at 76 Peapack Road; to date

he had not received a response from the building inspector. Mayor Karner, with Ms. D'Antuono's assistance, offered to address the response issue with the building inspector. Mr. Banisch noted that if the construction is within the building envelope and requires no variances, the property owner can proceed with construction so long as proper permits were secured.

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

## RESOLUTIONS

- **Resolution No. 2022-27** – Smile for Smile, LLC, Block 15, Lot 1.01, Suite 13A (Offices #1 & #2)

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

Councilwoman Tweedie made a motion to approve the resolution as written. Mr. Koury 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, Mr. Lawlor and Mr. Koury

Those Opposed: None

- **Resolution No. 2022-28** – Wendy von Fabrice, Block 15, Lot 1.01 Suite 13A (Office #5)

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

Mayor Karner made a motion to approve the resolution as written. Mr. Koury 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, Mr. Lawlor, Mr. Koury, Ms. Harvey and Mr. Swon

Those Opposed: None

- **Resolution No. 2022-29** – Perry, Block 7, Lot 3

*Those eligible: Vice Chairman Lewis, Mayor Karner, Councilwoman Tweedie, Ms. Harvey and Chairman Rochat*

Mayor Karner made a motion to approve the resolution as written. Councilwoman Tweedie 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 and Ms. Harvey

Those Opposed: None

- **Resolution No. 2022-30** – 20 Lake Road, LLC, Block 4, Lot 9

*Those eligible: Vice Chairman Lewis, Mayor Karner, Councilwoman Tweedie, Ms. Harvey and Chairman Rochat*

Mayor Karner made a motion to approve the resolution as written. Councilwoman Tweedie 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 and Ms. Harvey

Those Opposed: None

## **APPLICATION/PUBLIC HEARING**

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

Mayor Karner and Councilwoman Tweedie recused themselves from the hearing as the application involves a use variance.

Mr. Banisch reminded the Board and the applicant that in the case of a use variance the applicant needs to garner five (5) affirmative votes.

Brian Fahey, Attorney for the applicant was present and noted that the Gulbrandsen family is his client. Mr. Fahey explained that his client wishes to adjust the lot line so that the security gate previously installed would be entirely on their lot; the security gate is approx. 100 feet down the existing driveway. In doing the due diligence for the application, it was determined that some existing features require 'after the fact' variances including a use variance for a solar array that was installed in 2007 with proper permits. In addition to the use variance for the solar array, the solar array also encroaches into the 100-foot required rear setback by approximately 8 feet. There are also a number of features including two (2) sheds, a 1/2 size basketball/athletic court that pre-date the Gulbrandsen's ownership. The decision was made to seek a lot line adjustment so that the gate will be entirely on the Gulbrandsen property and a setback variance since the gate encroaches into the side yard setback. Mr. Fahey noted that Mr. Banisch, in his review letter, identified another variance on Lot 7 involving a walkway.

Paul Fox, Engineer with Apgar Associates was present and sworn in by Ms. Seibold. Mr. Fox, using the plan submitted with the application, described the driveway security gate and the proposed lot line adjustment which will be an equal amount of area (7,780 sq. ft.) swapped between Lots 6 & 7; neither lot gains or loses lot area. The adjustment achieves a side yard setback for the gate controls of 23.8 feet from the side property line (100 feet is required). The other variances required are for the basketball court, two (2) sheds and the solar array. The solar array is setback 92.9 feet from the rail line and the closest residential property line on the other side of the rail tracks is 192 feet. The area

between the solar array and the residential property is filled with dense vegetation and is well screened. Mr. Fox noted the sidewalk on the property owned by Mrs. Glass is 97.3 feet from the property line. He concluded by noting that no construction is proposed and the main focus is to adjust the lot line to get the security gate on the lot that it services.

Mr. Fahey raised the point that there was some work done on the property to remove deer fence and dead trees and confirmed that no additional impervious coverage was added.

Mr. Bolio, referring to the Ferriero letter of June 22, 2022, asked if there would be any impact to the septic, well or other utilities as a result of the lot line adjustment. Mr. Fox noted that the utilities were located and there will be no impact; he agreed to add the utility information to the plans. When asked if he had any objection to complying with the comments raised in the June 22, 2022 letter, Mr. Fox responded in the negative.

With respect to the solar array, Mr. Banisch noted that the Board's biggest concern has been the visibility of these features from offsite properties or public travel ways. While it was described by Mr. Fox as being screened, Mr. Banisch asked for detail about the type of screening and if the array is visible. Mr. Fox noted that he has driven Peapack Road and it is not visible partially because the property is at a lower elevation. He went on to indicate that the vegetative buffer is a mix of trees and invasive species; very thick with a mix of multiflora rose, privet and trees. When asked if it is visible in the winter during leaf off conditions, Mr. Fox responded in the negative. When asked if there are any other environmental constraints or limitations on the property, Mr. Fox noted that he only walked the property where there were issues relative to the setbacks and there were no constraints witnessed. When asked about the topography, Mr. Fox described it as gently sloping toward the train tracks (no steep slopes).

Mr. Banisch noted that it is unknown who installed the sheds and ½ size basketball court or why it occurred. Mr. Fox noted that the solar array was fully permitted, and construction permits were issued by the Borough. Mr. Fahey explained that the smaller of the two (2) sheds was erected by the applicant (located 98.2 feet where 100 feet is required). When asked by Mr. Bolio if Mrs. Glass has objected to the location of the sheds or basketball court, Mr. Fox responded in the negative. When asked by Mr. Swon how long Mrs. Glass has resided at the property, Mr. Fahey opined 1986 (before the Gulbrandsen's acquired the property).

There being no additional questions from the Board, Mr. Lawlor made a motion to open the meeting up to the public for questions of Mr. Fox. Mr. Koury seconded the motion. All were in favor.

Dr. Mellendick, Lake Road questioned how it would be in the Borough's interest to have the property owner remove the shed and relocate the basketball court. Mr. Banisch explained that the Board must recognize that those features are non-conforming conditions and that they have not been property permitted. Dr. Mellendick didn't see a compelling reason to remove the structures and encouraged the Board to grant the relief necessary to retain them.

Skip Schwester, Lake Road asked why the applicant didn't seek an easement for the security gate rather than a lot line adjustment. Mr. Fox explained that Mrs. Glass was concerned that an easement would potentially impact on the future sale of the property.

There being no additional questions for Mr. Fox, Vice Chairman Lewis closed the public questioning.

Allison Fahey, Professional Planner, Westwood, NJ was present and sworn in by Ms. Seibold. Ms. Fahey provided her qualifications and was accepted by the Board. Ms. Fahey noted that she familiarized herself with the Borough Master Plan and Land Management Ordinances. She explained that the applicant requires five (5) c variances (bulk) and one (1) d1 variance (use); the d1 variance is for the solar array which is not permitted in the zone.

The following was testified to in support of the solar array: 1) solar arrays are considered an inherently beneficial use defined by the MLUL, 2) it promotes general welfare, 3) purpose I of the MLUL, promoting desirable visual environment, 4) purpose N promoting the utilization of renewable energy sources, 5) promoting renewable energy sources as noted in the Borough's Land Management Ordinance, and 6) furthers the NJ development and re-development plan. She noted that there is no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan as well as the Land Management Ordinance. The five (5) c1 and c2 variances are supported by the same criteria as for the d1 variances.

Mr. Banisch opined that the hardship is evident in terms of having to relocate sheds, move the safety gate and solar array. He agreed with the characterization by Mr. Fox that the area in the rear is heavily vegetated and the solar array is not likely to be visible. When asked if she opined that the relocation of the features would be a hardship on the applicants, Ms. Fahey responded positively. Mr. Banisch noted that the relief required for the walkway on the Glass property is a strict interpretation of the ordinance and the Board has granted relief in the past without a lot of discussion. Mr. Banisch noted that a c1 is a hardship variance and a c2 is a benefit vs. detriment variance and he opined that the relief being sought would fall under the c1 hardship variance because there is no discernable benefit to the general public. Mr. Banisch emphasized that, despite the extraordinary deviation from the setback requirements, the safety gate is setback approximately 700 feet from the public roadway and is not visible.

There being no additional questions from the Board, Mr. Lawlor made a motion to open the meeting up to the public for questions of Ms. Fahey. Mr. Koury seconded the motion. All were in favor.

Paul Vallone, Sunnybranch Road noted that he resides on the other side of the Glass family and the solar array is not visible and he had no concerns with the application.

There being no additional questions for Ms. Fahey, Vice Chairman Lewis closed the public questioning.

When asked by Vice Chairman Lewis the kilowatts of the array, Mr. Fahey was unsure but noted that it is a net metering array and is connected to the grid. It sometimes provides more power than required by the house so it then powers the grid. The array was sized for a different house that the Gulbrandsen's owned.

When asked by Mr. Lawlor about the encroachment into the utility easement, Mr. Banisch explained that the approval would be subject to any other outside agency with jurisdiction, and he suggested that the Board include that as a condition of approval. Mr. Banisch also suggested that the Board condition

the approval that there be no reconstruction of the non-conforming sheds or solar array to which Mr. Fahey agreed.

Mr. Lawlor made a motion to approve the application for a lot line adjustment and bulk and use variances. The motion was seconded by Mr. Koury. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mr. Lawlor, Mr. Koury, Ms. Harvey and Mr. Swon

Those Opposed: None

**CORRESPONDENCE**

1. A letter dated October 7, 2022 from the County of Somerset Planning Board re: Cilento, 30 Peapack, LLC 30 Peapack Rd proposed subdivision & building addition, Block 9, Lot 2.

**ZONING UPDATE**

- Zoning memo dated October 26, 2022 – Kimberly Coward

**ADJOURNMENT**

Motion by Mr. Lawlor, seconded by Mayor Karner and unanimously carried to adjourn the meeting at 8:15 p.m. All were in favor.

  
Shana L. Goodchild, Planning Board Secretary

**APPROVED 12/5/22**