

**BOROUGH OF FAR HILLS**  
Planning Board Regular Meeting  
**MINUTES**  
December 5, 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, Marilyn Layton, John Lawlor, Jack Koury, Suzanne Humbert and Andrea Harvey, Alt. #1

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

Absent: Thomas Swon, Alt. #2

There were approximately ten (10) audience members present.

**BILL LIST**

- December 5, 2022

Vice Chairman Lewis made a motion to approve the Bill List. 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, Ms. Layton, Mr. Lawlor, Mr. Koury, Ms. Humbert, Ms. Harvey and Chairman Rochat

Those Opposed: None

**MINUTES**

- November 7, 2022 Regular Meeting

Mayor Karner made a motion to approve the minutes of the November 7, 2022 Regular Meeting for content and release. Vice Chairman Lewis 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.

Skip Schwester, Lake Road was present and asked about the new water resource regulations from the NJDEP and how they impact certain projects; he noted that the new rules had been published on the

NJDEP website. Mr. Banisch explained the intent of the rules and noted that the Borough professionals looked at the impact on the Errico Acres project and there was no impact to the developable portions of the site but that it would be reviewed again since the final rules were published. He did note that the rule will impact many properties in the Borough but it will not impact the developable portion of the Errico Acres site as it is up slope. Mr. Banisch went on to explain that the Rule was likely written to exempt projects that already received NJDEP approvals. Mr. Schwester agreed although noted that if the calculations were flawed the project would be considered under the new rules.

Mr. Schwester asked about the existing NJ American Water Sewer allocation to which Councilwoman Tweedie offered to provide the numbers at a future date. Mr. Schwester indicated that based on his research there are 10,000 gallons remaining and he opined that the lack of capacity was the reason Errico Acres was changed from a sewer to a package plant. Councilwoman Tweedie noted that the question was asked and answered in the past. Vice Chairman Lewis noted that the FEMA mapping can be viewed on-line. A brief discussion ensued regarding the difference between the wetlands area and the flood hazard area.

George Mellendick, Lake Road, was present and asked for confirmation that the public would be noticed, as promised by the Mayor, when the resolution compliance submission was made by Pulte/Melillo and prior to the Board voting on the Errico Acres project. Dr. Mellendick was reminded that this was asked and answered at the November meeting. Mr. Banisch explained that there is no interactive public process for resolution compliance. He went on to note that the Mayor indicated that the reports would be posted on the Borough webpage but there would be no vote on resolution compliance. The application was voted on by the Board with a series of conditions, some of which require outside agency review and approval. Ms. Goodchild noted that the resolution compliance package was available in her office and are accessible on the Borough webpage. Dr. Mellendick questioned why it took nine (9) months for the Borough professionals to review the submission and issue reports. Mr. Banisch again explained review and approval process by multiple outside agencies which impacts the review timeline. When asked if the Board had reviewed the resolution compliance package and the reports, Mr. Banisch explained that the Board does not get involved in the resolution compliance process unless there is a deviation from the original approval.

Referencing the October 3, 2022 minutes, Dr. Mellendick questioned the conference call that was to have occurred on October 5, 2022. Mr. Banisch noted that the call was an informational meeting to discuss any outstanding issues and concerns. Dr. Mellendick expressed concern with meetings occurring outside of the context of the Planning Board; none of the conclusions of those meetings are shared. Mr. Banisch clarified that the Borough professionals only review and comment on what the Planning Board's approval authorized. To date, the review has not warranted the applicant returning to the Board for any deviation of the approval. Dr. Mellendick again noted that the former Board Attorney, Peter Henry, promised that there would be an opportunity for the public to comment at the end of the process. Chairman Rochat noted that the public was given the opportunity to comment at the January meeting.

Jonathan Sobel, Spring Hollow Road, was present and suggested that the Errico Acres project was heard on a holiday (January 3, 2022) to avoid community involvement and the public process. Mr. Sobel expressed his disappointment in the process and opined that the Borough could have negotiated more, such as water and sewer fees. He recommended the Borough go to the Courts and re-negotiate

the options and requested the Board go over the details of the project again to give the Borough the best development possible.

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

## **APPLICATION**

- Appl. No. PB2022-19  
Paul Abend  
Block 15, Lot 1.01  
49 Route 202, Suite 13A (Office #10) – subscription application  
Change of Use/Occupancy/Site Plan Waiver

Ms. Layton and Ms. Humbert were recused as they reside within 200 feet of the project.

Anthony Melillo was present and was sworn in by Ms. Seibold. Mr. Melillo explained that the application is a subscription lease. The occupant, Paul Abend, requested a one (1) year lease for office space for administrative work for private consulting; he is a doctor by trade but this space is for his non-profit work. His medical office is in Bernardsville and he is a resident of Warren. 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. Mayor Karner noted that at a recent visit to the property he encountered someone speeding through the parking lot. Mr. Melillo agreed to monitor the situation and ask tenants to also be cognizant. When asked by Mr. Banisch the typical usage during the day, Mr. Melillo responded approx. four (4) tenants at any given time; very light use and ample parking is available.

There being no additional questions from the Board or professionals, Vice Chairman Lewis 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 and Chairman Rochat

Those Opposed: None

## **RESOLUTION**

- **Resolution No. 2022-31** – Gulbrandsen, Block 6, Lots 6 & 7  
*Those eligible: Vice Chairman Lewis, Mr. Lawlor, Mr. Koury, Ms. Harvey and Mr. Swon*

Vice Chairman Lewis 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, Mr. Lawlor, Mr. Koury and Ms. Harvey

Those Opposed:       None

## APPLICATION/COMPLETENESS DETERMINATION & PUBLIC HEARING

- Appl. No. PB2022-14  
Renard  
Block 6, Lot 33  
20 Spring Hollow Road  
Bulk Variances  
*Action Deadline – 04/04/23*

At the request of Chairman Rochat, Mr. Bolio outlined the completeness determination process and noted that the applicant requested waivers. Referring to his December 1, 2022 letter his recommendation was for the Board to grant those waivers and deem the application complete. With respect to the waivers, Mr. Banisch recommended that the Board grant waivers for completeness purposes only. He noted that additional information has been requested related to the environmental conditions. Mr. Banisch spoke briefly about completeness and the starting of the clock for the Board to take action on the application; the Board has the right to request additional information during the course of the public hearing process.

There being no additional questions about completeness, Vice Chairman Lewis made a motion to grant the requested waivers and deem the application complete. 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, Mr. Lawlor, Ms. Layton, Mr. Koury, Ms. Humbert, Ms. Harvey and Chairman Rochat

Those Opposed:       None

Paul Fox, Engineer with Apgar Associates was present and sworn in by Ms. Seibold.

Lorent Renard, Applicant/Owner, King George Road, Basking Ridge was present and sworn in by Ms. Seibold.

Michael Brandis, Architect, was present and sworn in by Ms. Seibold.

John Peel, PK Environmental was present and sworn in by Ms. Seibold.

Mr. Renard, Applicant/Owner explained that he and his wife have lived in New Jersey for 20+ years, raised two (2) daughters who have moved on and have now decided to move further West to build a house with a pool and patio. When asked if he had reached out to his neighbors regarding the project, Mr. Renard responded in the positive and noted that it has been an ongoing dialogue since October of 2021. He went on to explain that it is a property that has been abandoned for over 20 years and the overwhelming response from the neighbors was positive with exception of Mr. Sobel who is concerned with the proximity of development. Mr. Renard noted that he tried to address all the concerns of the neighbors through landscaping and fencing. When asked about the condition of the

house, Mr. Renard explained that it is in very poor condition, and he has since boarded it up for safety reasons.

There being no questions from the Board, Mr. Banisch asked if there was consideration of the environmental constraints when deciding on the location of the home. Mr. Renard explained that the purchase of the property was conditioned on there being a buildable area on the lot while respecting the constraints. When asked about the feral cats that reside in the house and how those will be addressed, Mr. Renard indicated that his Engineer, Paul Fox, would address the issue. When asked by Chairman Rochat about the growing of blueberries as noted on the plan, Mr. Renard explained that he engaged Gracie and Harrigan to develop a plan to renew the forest; the blueberry farming will likely be scrapped.

Michael Brandis, Architect provided his professional background and was accepted by the Board. Using the plans submitted as part of the application, he explained that the home will be a shingle style home with an equestrian feel. When asked the size of the home, Mr. Brandis explained that it is just over 5,000 square feet with four (4) bedrooms and a three (3) car garage. The house conforms with all zoning and is positioned within the building envelope; the septic field and seepage pit are considered structures and do not fit within the required building envelope. When asked if the 5,000 square feet includes the garage, Mr. Brandis responded in the positive. When asked by Chairman Rochat if the pool conforms with setbacks, Mr. Brandis responded in the positive.

Mr. Fox, using sheet two (2) of the plans submitted with the application, described the variances required for the project as follows: 1) the proposed septic system is within the front and side yard setbacks; the features are fully underground (it is not a mounded disposal bed) and no removal of trees are necessary. 2) the drywell system in the rear of the home is within the rear setback and is to manage stormwater from the home and pool patio; the feature is completely underground and will not be visible. 3) the sidewalk that wraps from the front to the rear of the home is located 91.9 feet from the side property line where 100 feet is required. Mr. Fox went on to explain that the property has frontage on both Spring Hollow and Lake Roads; Lake Road is a designated scenic corridor and a scenic corridor easement will be conveyed for the front 200 feet parallel to Lake Road. Additionally, since the property is titled to the center of Lake Road, the applicant will convey a right of way easement to address any future road improvements contemplated. Finally, there are wetlands as well as a stream that traverses the property and a stream corridor conservation easement will be conveyed. Mr. Fox noted that the wetlands mapping has been submitted to the State and they have agreed that the proposed project is outside of the wetlands and transition area; the formal paperwork will be provided to Mr. Bolio's office. The only regulated feature where proposed work is contemplated is the riparian buffer in existing developed areas; no permit is necessary.

Mr. Fox reviewed the Ferriero letter dated December 1, 2022, and had no objection to the points raised and agreed to comply. With respect to the comment regarding the fencing, Mr. Fox indicated that if the existing six (6) foot high fence is located on his client's property it will be removed when the new fence is installed. Addressing the letter from Mr. Banisch, Mr. Fox explained that the existing lot area is 10.1525 acres measured to the centerline of Lake Road but once the right of way easement is dedicated the remaining acreage will be 9.7158 acres which is used for both the lot and building coverage calculations. Mr. Fox explained that his firm subdivided the property in the 1940's as a 10 acre lot and environmental conditions were not considered at the time. The Borough Code requires 3 acres of developable land exclusive of area in the setbacks and NJDEP regulated areas; 0.43 acres is

available on the subject lot. Mr. Fox noted that the applicant developed a project to fit within that area and is confident that it is a good plan going forward; the home proposed is average or slightly below average size compared to other homes on Spring Hollow Road. Addressing comments from Mr. Banisch related to the location of the well and septic on the adjacent lot to the West (Lot 32), Mr. Fox noted that the proposed locations of the well and septic on the subject lot have been approved by the Board of Health. When asked the distance from the side yard and the applicant's new dwelling, Mr. Fox responded 107 feet.

Mr. Fox presented a landscape plan, marked as **Exhibit A-1**, which was prepared by the applicant's landscaper. The plan shows the proposed landscaping designed to the proposed limit of disturbance as shown on the engineering plan. The blueberry patches have been removed from the plan because the installation would require land disturbance and trigger higher stormwater requirements. Mr. Banisch questioned whether blueberries are a water dependent crop and if NJDEP would allow it as a permitted activity. Mr. Fox agreed to return to the Board if the applicant wanted reconsideration related to the blueberry crop. Addressing the issue related to the feral cats, Mr. Fox indicated that the applicants are eager to move forward on an expedited basis and will bring in a pet control service to set traps and clear everything from the house prior to the construction official releasing a demolition permit.

When asked by Vice Chairman Lewis if the ground percs, Mr. Fox responded in the positive and noted that a primary and reserve area were located as well as favorable results for the drywells. When asked by Chairman Rochat about the location of the existing septic field, Mr. Fox pointed it out on the plans submitted as part of the application (located in the rear of property). When asked by Mr. Bolio to address the surface drainage, Mr. Fox explained that the topography demonstrates that everything flows towards Lot 32 or toward the rear property line; the proposed grading was designed to mimic the existing drainage to avoid any change in the amount of stormwater directed to either side of the house. Using the plans on file, Mr. Fox demonstrated for the Board the location of the stream, drainage pattern and proposed location of the scenic corridor and stream corridor easements.

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

Skip Schwester, Lake Road asked for clarification about the roof material to which Mr. Brandis confirmed it will be a standing seam roof. When asked about runoff, Mr. Fox explained that runoff from the roof and patio area will be collected and directed into subsurface drywells located behind the home. When asked what was included in the calculation, Mr. Fox responded the roof, patio, walkways and everything associated with the house. When asked if the pool was included, Mr. Fox responded in the positive.

George Mellendick, Lake Road welcomed the applicant to Far Hills and explained that residents are concerned with land preservation as well as vistas and roadside habitat. To the extent that the rural flavor of the property can be preserved, Dr. Mellendick encouraged the applicant to do so. In response to recent road improvements along Lake Road, Dr. Mellendick noted that he is opposed to road improvement which are conducted at a State standard.

Jonathan Sobel, 44 Spring Hollow Road explained that he has lived adjacent to the subject property for eight (8) years on 'Peace and Quiet Farm' with his wife and four (4) children. He welcomed the

applicants and noted that they shared plans with him but he was unaware of the variances necessary. He opined that the lot was already non-conforming and therefore requires Planning Board approval regardless of variances. Mr. Banisch noted that it was a conforming lot with respect to the lot area prior to the application. Mr. Sobel explained that he called Borough Hall and spoke to the Clerk and the Zoning Office and received clarification that it is a non-conforming lot. He went on to express his concern that because the lot is at a higher elevation than his it will become a health issue for he, his family and his animals. He opined that the applicant is seeking a 'harmful' variance that will have a negative impact on his land and groundwater and asked that the variances be denied. When asked by Mr. Sobel the distance his well is from the proposed septic system, Mr. Fox responded over 100 feet. Mr. Fox added that the best soils on the property is where the septic system is proposed. Mr. Sobel noted that his front pasture is adjacent to the area proposed for the septic field and he requested that the drywell and septic field locations be re-evaluated. Mr. Sobel indicated that he could involve a lawyer and other professionals but would like to handle it properly and work with the neighbor and the town.

Mr. Sobel entered into the record a letter dated December 4, 2022 from James Gould, marked as **Exhibit O-1**, regarding the age of his well and asked the Board to take his property into consideration.

There being no additional questions from the public, Chairman Rochat closed the public questioning.

John Peel, Planner, Westwood, NJ was present and provided his professional background and explained that he was retained to provide planning and environmental testimony. Mr. Peel reviewed Mr. Banisch's letter and addressed the stream corridor issue explaining that certain activities are permitted within the corridor. When asked by Mr. Banisch if NJDEP would permit activities within the regulated areas, Mr. Peel explained that NJDEP will not permit disturbance in regulated areas if a suitable area is found in non-regulated areas. When asked to address the bulk variances required, Mr. Peel explained that the style and size of the proposed house is ideal as it is the only thing that fits with the constraints. The following was testified to in support of the bulk variances: 1) promotes reasonable planning goals for aesthetics, 2) promotes purposes of the MLUL by encouraging appropriate use of development, provides adequate light, air and open space; and 3) promotes a desirable visual environment which accrues to the public through honoring the scenic corridor. When asked about moving the septic system further from the common lot line with Lot 32, Mr. Peel noted that septic suitability has to do with suitable soils and deferred the location to Mr. Fox. Mr. Banisch questioned whether there was any consideration given to adjusting the location of the septic system further into the front yard and away from Lot 32. Mr. Koury opined that the time to find a compromise was now. Mr. Fox explained that the setback variance being requested is a setback required for structures, in this instance the Board of Health requires that any septic system be at least 100 feet from a dwelling and the applicant conforms with that requirement; the septic system is 113 feet from the well on the adjacent property. Having said that, Mr. Fox indicated that the applicant would be willing to reverse the primary and reserve areas placing the primary septic bed outside of the required setback and eliminating the variance. He noted that the only issue is that there would not be gravity flow to the proposed bed; it would require a pump system.

When asked by Vice Chairman Lewis what drains to the drywells, Mr. Fox indicated the roof and patio rainwater runoff; the driveway runoff flows to the back and side and is filtered naturally. When asked

by Mr. Koury the content of the letter marked as Exhibit O-1, Ms. Goodchild distributed copies to Board members for their review. Mr. Sobel explained that he has a very old well with a thin lining. He noted that the offer to change the reserve area did not alleviate his concerns. Mr. Renard noted that he has proposed a lot of landscaping and trees to block the house and he offered to re-do the fence, however the buildable area of the lot is minimal. He went on to explain that the property has been an eyesore for the community and the previous owner was delinquent in terms of taxes creating a bigger issue for the Borough. He noted that he has tried to be a good neighbor but at the same time has the right to build a house on the property.

In conclusion, Mr. Peel testified that relief can be granted without substantial detriment to the public as long as the septic system complies with all of the rules; the benefits outweigh any potential detriments.

When asked by Vice Chairman Lewis about lighting, Mr. Renard confirmed that there would be minimal lighting. Mr. Banisch noted that the Board requests downward directed lighting so as not to create any offsite glare. Mr. and Mrs. Renard agreed to that condition.

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

Jonathan Sobel, 44 Spring Hollow Road, asked how building a new house would be considered a benefit to the community. Mr. Peel explained that the old house is non-conforming (within 100 feet of the roadway) and the new project was designed to minimize environmental impacts, increase the scenic buffer along Still Hollow Road and replace leaking oil and septic tanks. Mr. Sobel noted that the Board should not grant approvals that result in negative impacts for residents; the drywell and septic locations have negative consequences on his land.

There being no additional questions from the public, Chairman Rochat closed the public questioning.

Mr. Fox reiterated that the applicant would move the primary septic area so that it conforms with the side yard setback closest to Mr. Sobel's property. He also agreed to investigate a reserve area that conforms with setbacks. Mr. Fox noted for the record that his qualifications include a Master's degree for Civil and Environmental Engineering from Cornell University, including studies in groundwater hydrology, pollutant transport and groundwater modeling. It was his testimony that the proposed location of the disposal bed won't have any impact to Mr. Sobel's well. When asked by Vice Chairman Lewis the number of feet of soil effluent has to travel before it is treated, Mr. Fox responded that the treatment zone is considered to be 4 feet below the infiltration zone. Mr. Fox noted that minimum distances between septic systems and wells were established for a reason and those distances have served the State well for the last 50+ years; what the applicant is proposing far exceeds the minimums required. When asked if the site has the type of geology that would allow untreated effluent to travel hundreds of feet, Mr. Fox responded in the negative.

With respect to the lot area, Mr. Bolio noted that the ordinance defines lot area as taken to the street line and is applicable whether a right of way is dedicated or not; the plan indicates a lot area to the right of way line of 9.8197 acres. Mr. Banisch noted that the Board is considering it to be a pre-existing condition and the applicant is willing to give the easement along Lake Road for any future maintenance or road improvements that might be required.



When asked by Mr. Lawlor if an injector system was investigated to get it further away, Mr. Fox explained that a pump system would be required based on the offer to move the primary bed.

Chairman Rochat suggested a site walk of the property to which the Board agreed.

Vice Chairman Lewis expressed concern that the applicant provided expert witnesses, but the objector only provided a letter from someone that is familiar with wells but not an expert. Mr. Sobel indicated that he would bring qualified experts to the next hearing.

Ms. Harvey opined that the Board should consider the offer by the applicant to move the primary septic field.

Mr. Koury questioned the cost of a new well and opined that the solution might be to reline/rebuild the well. Mr. Sobel reiterated his concern about his well.

When asked by Mr. Renard if the neighbor's concern was health related or the variance, Mr. Sobel responded that it is a health issue.

Chairman Rochat announced a site walk of the property for December 10, 2022 at 9 a.m. Mr. Fox was asked to stake out the original location for the septic bed and the alternate location to which he agreed. It was announced that the public hearing would continue, without further notice, on January 3, 2023 at 7 p.m.

### **CORRESPONDENCE**

1. A letter dated December 1, 2022 from Ferriero Engineering re: Renard Variance, Block 6, Lot 33, 20 Spring Hollow Road.
2. A letter dated October 28, 2022 from Ferriero Engineering re: Renard Variance, Block 6, Lot 33, 20 Spring Hollow Road.
3. A letter dated November 17, 2022 from Ferriero Engineering re: 11 DeMun LLC Minor Subdivision w/Variance, Block 13, Lot 5, 11 DeMun Place.
4. A letter dated November 22, 2022 from Ferriero Engineering re: Haidri-Symington Minor Subdivision – Lot Line Adjustment, Block 23, Lots 1 & 2.01, 180 & 210 Douglas Road.
5. The NJ Planner, Sept./Oct. 2022, Vol. 83, No. 5.

### **ZONING UPDATE**

- Zoning memo dated November 29, 2022 – Kimberly Coward

### **ADJOURNMENT**

Motion by Councilwoman Tweedie, seconded by Mayor Karner and unanimously carried to adjourn the meeting at 9:17 p.m. All were in favor.

  
Shana L. Goodchild, Planning Board Secretary

**APPROVED 1/3/23**

