

**BOROUGH OF FAR HILLS**  
Planning Board Regular Meeting  
**MINUTES**  
September 5, 2023

**CALL TO ORDER**

Chairman Rochat called the meeting to order at 7:07 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, Mayor Kevin Welsh, John Lawlor, Marilyn Layton, Jack Koury, Suzanne Humbert and Thomas Swon, Alt. #2

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

Absent: Vice Chairman Robert Lewis, Councilwoman Sheila Tweedie and Andrea Harvey, Alt. #1

There were approximately six (6) audience members present.

**BILL LIST**

- September 5, 2023

Mayor Welsh 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: Chairman Rochat, Mayor Welsh, Mr. Lawlor, Ms. Layton, Mr. Koury, Ms. Humbert and Mr. Swon

Those Opposed: None

**MINUTES**

- August 7, 2023, Regular Meeting

Mr. Koury made a motion to approve the minutes of the August 7, 2023 Regular meeting for content and release. Ms. Layton seconded the motion. All were in favor.

**PUBLIC COMMENT**

There was no public comment.

**RESOLUTIONS**

- **Resolution No. 2023-22** – Albrecht & Dill USA, Inc. Block 15, Lot 1.01

PLANNING BOARD MINUTES

9/5/23

Page 1 of 7

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

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

Roll Call Vote:

Those in Favor: Mr. Lawlor, Mr. Koury, Mr. Swon and Chairman Rochat

Those Opposed: None

- **Resolution No. 2023-23** – Far Hills Corner, LLC Block 14, Lot 1

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

Ms. Layton made a motion to approve the resolution as written. Mayor Welsh seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Welsh, Mr. Lawlor, Ms. Layton, Mr. Koury, Mr. Swon and Chairman Rochat

Those Opposed: None

## **PUBLIC HEARING - CONTINUATION**

- Appl. No. PB2023-07

Welsh's Motor Sales, Inc.

Block 13, Lot 12

26 Dumont Road

Preliminary and Final Major Site Plan and Use Variance

*Action Deadline – 12/5/23*

Mayor Welsh recused himself from the public hearing.

Mr. Linnus noted that the Board directed him at the August meeting to prepare a resolution in the affirmative, that draft resolution has been distributed for the Board's review. He noted that the hearing was a continuation from August and he instructed the Board to listen to Mr. Simon's presentation, review the draft resolution and take action or table the decision for the next meeting.

Robert Simon, Attorney on behalf of the applicant was present and requested clarification on the eligibility of Board members. Ms. Goodchild noted that the following Board members were eligible: Mr. Koury, Mr. Lawlor, Ms. Layton, Chairman Rochat and Mr. Swon. Mr. Simon went on to provide a brief overview of the application and the testimony previously provided by Ron Kennedy, Engineer/Planner. He noted that he provided comments on the draft resolution and that the matter was carried in order to provide members of the public with an opportunity to return to make comment or ask further questions. Mr. Linnus noted that the Board received Mr. Simon's comments in the form of the 8/30/23 draft resolution.

Mr. Banisch explained that he and Mr. Bolio had an opportunity to review the draft resolution and opined that the Board may want to hear about the parking condition that will be modified. Addressing the parking on Dumont, Mr. Simon, referring to the top of page five (5) of the draft resolution, explained that the applicant will be giving up its entitlement to the use of five (5) parking spaces on Dumont Road during daytime business hours; reducing on street parking by the dealership and reducing on street parking congestion. Referring the Board to pages 8 and 10 of the draft resolution, Mr. Simon explained that certain rights were given to the applicant in a prior application, specifically as to parking on Dumont Road. By virtue of this application, the applicant is agreeing to relinquish its right to five (5) of the ten (10) daytime parking spaces. In addition to that, the applicant has agreed to file an Acknowledgement of Obligations as to conditions of approval pertaining to the subject application but to also record a separate amended Acknowledgement of Obligations regarding the properties that were subject to the 2015 approval.

Mr. Banisch noted that after the last hearing he inspected the spotlight on the west side lot line (the JCP&L controlled light) and the light was not on. Mr. Simon noted for the record that the applicant believes that the light will be removed. Mr. Linnus pointed out that after reviewing the minutes, Condition No. 14 will be amended to require an in-service lighting inspection. Mr. Koury pointed out that lighting is a concern for local neighbors. Mr. Banisch explained that they will approach the review of the revised lighting plan from the perspective that after-hours lighting will be kept to an absolute minimum and only what is necessary for security purposes. Mr. Kennedy noted that the lighting was reviewed after the last hearing and two (2) lights that face the front door and two (2) on the gable ends will be removed; all intrusive lighting will be removed. Other lighting fixtures will be replaced with 'dark sky' compliant lighting which will face down and be shielded to avoid light spillage onto neighboring properties.

Chairman Rochat pointed out that the Borough does not guarantee Welsh Motors five (5) parking spaces on the street, to which the applicant agreed. Mr. Linnus suggested a condition that all conditions of all prior resolutions, where not in conflict with the current resolution, be in full force and effect. When asked by Mr. Lawlor the purpose of the condition if the Borough controls the parking spaces, Mr. Banisch noted that the objective was meant to be permissive and allow Welsh Motors to utilize the spaces without objection from the Borough. Mr. Simon agreed with Mr. Banisch's interpretation and added that giving up five (5) of the daytime spaces frees up spaces for others. Mr. Simon added that should the lot cease to be used by Welsh Motors the resolution restrictions would terminate.

When asked by Chairman Rochat for clarification that the parking on the subject lot will be loaner cars not rental cars, Mr. Simon responded in the positive.

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

Nazario Paragano, 16 Dumont Road was present and expressed his support of the application. He noted that he addressed his concern regarding drainage directly with the applicant with the hope that mitigation efforts continue.

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

Mr. Linnus noted that should the Board take favorable action on the application a new draft resolution would be circulated incorporating additional findings together with additional conditions discussed.

There being no additional questions or comments from the Board, Mr. Lawlor made a motion to approve the application. Mr. Koury seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**CHANGE OF USE/OCCUPANCY/SITE PLAN WAIVER APPLICATIONS**

- Appl. No. PB2023-11  
Glo Esthetics, LLC  
Block 14, Lot 3  
27 Route 202, Suite #7  
Change of Use/Occupancy/Site Plan Waiver

Mr. Swon was recused from the application as he resides within 200 feet.

Anthony Melillo was present and sworn in by Mr. Linnus. Mr. Melillo explained that the occupant, Glo Esthetics, is currently a tenant in Suite #2. The owner is looking for more space and would like to move to Suite #7; services include facials and other non-invasive personnel cosmetic enhancements (facial massages, hydro facials, etc.). Hours of operation will be from 10 a.m. to 8 p.m., Monday through Friday and Saturday 8 a.m. to 1 p.m. There will be three (3) staff members on site with two (2) clients for a total of five (5). No site modifications are proposed, and the existing signage will be re-decaled in the foyer and by the door for Suite #7.

There being no additional questions from the Board or professionals, Mr. Koury made a motion to approve the application. The motion was seconded by Ms. Layton. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

- Appl. No. PB2023-12  
Circular Management Group, LLC  
Block 15, Lot 1.01  
49 Route 202, Suite 13A (Office #10)  
Change of Use/Occupancy/Site Plan Waiver

Ms. Goodchild announced that the application would be carried to the October 2, 2023 meeting due to a lack of a quorum of eligible Board members (Mayor Welsh, Ms. Layton and Ms. Humbert being recused).

Mayor Welsh and Mr. Swon returned to the dais at this time.

## **BOARD DISCUSSION**

- Reexamination of the Master Plan and Development Regulations (N.J.S.A. 40:55D-89)

Mr. Banisch provided an overview of his September 1, 2023 Memorandum and findings. He noted that three (3) sites are identified that respond to the statutory criteria for designation of a redevelopment area. The three (3) buildings identified include the railroad station, the collection of buildings at 49 Route 202 (the lumber yard) and the firehouse; all three (3) sites were constructed to operate as something else and have been adaptively reused; obsolescence establishes the need for redevelopment. Mr. Banisch pointed out other sites within the area identified with obsolete layouts including the Far Hills Mall and the Far Hills Corner site that was before the Board last month. Mr. Banisch outlined the statutory basis for the re-examination process and preliminary presentation to the governing body.

Mr. Linnus explained that there will need to be a declaration of whether the suggested areas meet the statutory criteria for an area in need of redevelopment; it will be up to the Borough Council whether they are going to designate the area or whether the Planning Board will designate the area. In either instance, there will be a full public hearing and a decision will be made as to whether the area qualifies as an area in need of redevelopment. If the area is deemed in need of redevelopment, a redevelopment plan then follows and the Borough has the advantage of additional legal and statutory control over a site-specific site plan for each of the sites designated.

When asked by Mr. Koury if the redevelopment plan can require a private property owner to do something with the site, Mr. Linnus explained that typically it is designed as a non-condemnation area. Mr. Banisch added that the redevelopment plan can be an ordinance that can supersede zoning. Ideally there will be a cooperative property owner willing to participate in the process and will prepare concept development plans for the Board to review. When going through the redevelopment process, the Borough cannot consider what comes next as the reason to designate a redevelopment area; the only reason is that the statutory conditions exist. Mayor Welsh pointed out how important it will be to engage with the public and solicit their feedback. Chairman Rochat questioned the process of dealing with NJ Transit to which Mr. Banisch explained that there would need to be dialog between the Borough and NJ Transit regarding future development plans. He opined that they will want to preserve surface parking and transit oriented development (multifamily housing). When asked by Mayor Welsh about notice to the public, Mr. Linnus read the following procedure into the record:

*The investigation first starts with the Borough Council by a resolution authorizing the Planning Board to conduct these hearings to determine whether the properties designated should be designated under the law. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall by resolution authorize the Planning Board to undertake a preliminary investigation.*

The notice requirements are as follows:

1. *A copy of the notice shall be published in the newspaper of general circulation in the municipality once each week for two (2) consecutive weeks and the last publication shall not be less than ten (10) days before the date set for the hearing.*
2. *A copy of the notice shall also be mailed at least ten (10) days before the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality.*
3. *In addition, a notice shall also be sent to all persons at their last known address, if any, whos names are noted on the assessment records as claimants of an interest in any such parcel.*

A brief discussion ensued regarding the train station parking and the use of that lot with the point being that the area is underutilized.

Mr. Bansich noted that he had a discussion with Councilman Coccoziello regarding the review of the Scenic Corridor ordinance. The suggestion was to review the standards and broaden the range of conditional uses, particularly with regard to the quality of the vegetation that occupies the areas within which no disturbance can be permitted; there are invasive/exotic species that are not permitted to be removed. In conclusion there should be a recommendation in the re-examination report to amend the Scenic Corridor ordinance to provide opportunities for a Scenic Corridor Improvement Plan. Mayor Welsh noted that there was discussion at the Council level and he agreed that it should be added to the report. Mr. Banisch offered to consult with Mr. Bolio on other ordinance amendments that should be included such as the trivial structures within setbacks.

Mr. Banisch asked if the Board was agreeable to include 1) the Block that's bound by DuMont, Demun, Peapack Road and US 202 and the recommendation to the governing Body and 2) the NJ Transit property. There was no objection from most Board members present, however Ms. Humbert had serious reservations about the train station being included. Mr. Banisch again outlined the process noting that the Borough Council will identify the sites that should be investigated. After the investigation, the Planning Board will forward its findings back to the Council.

Councilman Peter Coccoziello asked if identifying the NJ Transit site gives the Borough the greatest amount of discretion and control over development to which Mr. Banisch opined there would be more risk by doing nothing. When asked by Councilman Coccoziello if NJ Transit is considered a utility by zoning definition, Mr. Banisch opined that they have the State's power of eminent domain. Mr. Banisch and Mr. Linnus were authorized to research whether they are considered a utility. Ms. Humbert remained concerned about the NJ Transit site being included for fear of multi-family development. Mayor Welsh agreed that the history of Far Hills needed to be protected through the process.

When asked by Mr. Koury if any of the buildings have any historic significance, Mr. Banisch explained that the railroad station is on the National Register of Historic Places.

Addressing Change of Use and Occupancy/Site Plan Waiver applications, Mayor Welsh opined that the process puts a major burden on some applicants. Mr. Banisch described some scenarios where the Zoning officer could sign off, however, he agreed to return with some recommendations on how to address it through an ordinance amendment and general parameters (parking, drainage, signage).

When asked by Mayor Welsh why the Borough needs a Stream Corridor ordinance when the buffer is already regulated by NJDEP, Mr. Bolio noted that it gives the Borough control over the area. Mr.

Banisch explained that his office wrote the ordinance and it was put in place because NJDEP didn't have the controls in place or the ability to enforce the way the Borough preferred. He went on to explain that Far Hills was under intense development pressure and the Borough's defense was to adopt very restrictive and defensive regulations and zoning to control development.

There being no additional comments, Mr. Banisch agreed to return next month with additional information and guidance on the Master Plan Re-examination.

### EXECUTIVE SESSION

- **Resolution No. 2023-24** – Attorney-Client Privilege – Litigation Peace and Quiet Farm, LLC/Sobel vs Renard, Far Hills Planning Board and the Borough of Far Hills

Mayor Welsh made a motion to approve the above referenced resolution to enter into executive session at 9:00 p.m. for matters related to litigation. Mr. Koury seconded the motion. The motion was carried unanimously.

### RETURN TO OPEN SESSION

At 9:19 p.m. the Board returned to open session and Ms. Layton made a motion to authorize Mr. Linnus to respond to the August 31, 2023 settlement agreement proposal by the Attorney for Peace and Quiet Farm, LLC/Sobel. Mr. Koury seconded the motion. The motion carried by the following roll call vote:

#### Roll Call Vote

Those in Favor: Mayor Kevin Welsh, John Lawlor, Marilyn Layton, Jack Koury, Suzanne Humbert, Thomas Swon and Chairman Tom Rochat

Those Opposed: None

### CORRESPONDENCE

1. A letter dated August 10, 2023 from Steve Bolio, Ferriero Engineer re: Welsh's Motor Sales, Inc. – Preliminary & Final Major Site Plan and Use Variance Block 13, Lot 12.
2. A copy of a letter dated July 24, 2023 from NJDEP to Applied Geoecology, LLC re: Floor Hazard Area Permit, Far Hills Race Meeting Assoc.

### ZONING UPDATE

- Zoning memo dated August 29, 2023 – Kimberly Coward

### ADJOURNMENT

Motion by Mr. Koury, seconded by Ms. Layton and unanimously carried to adjourn the meeting at 9:20 p.m. All were in favor.

  
Shana L. Goodchild, Planning Board Secretary

APPROVED 10/2/23

