

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
November 6, 2023

CALL TO ORDER

Chairman Rochat called the meeting to order at 7:16 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 Kevin Welsh, Councilwoman Mary Chimenti, Marilyn Layton, Jack Koury, Andrea Harvey, Alt. #1 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: John Lawlor and Suzanne Humbert

There were approximately five (5) audience members present.

BILL LIST

- November 6, 2023

Ms. Layton made a motion to approve the Bill List. Councilwoman Chimenti seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Vice Chairman Lewis, Councilwoman Chimenti, Ms. Layton, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

Abstentions: Mayor Welsh

MINUTES

- October 6, 2023, Regular Meeting

Councilwoman Chimenti made a motion to approve the minutes of the October 6, 2023 Regular meeting for content and release. Mr. Koury seconded the motion. All were in favor.

PUBLIC COMMENT

Paul Vallone, 159 Sunnybranch Road was present and asked if the public would be made aware of any financial settlement at the conclusion of the litigation scheduled to be discussed in executive session. He noted that many times municipal insurance does not cover a financial settlement which translates

to tax assessments levied on residents. Mr. Linnus explained that any settlement would likely result in a 'Whispering Woods' hearing and open to the public resulting in a disclosure of the terms of the settlement.

Jerry Colasurdo, Pennbrook Road thanked the Board for the recent paving of Pennbrook Road and asked about ongoing maintenance of the stormwater drains. Chairman Rochat explained that the Borough Council is responsible for road maintenance and Mayor Welsh noted that Peter Coccoziello is the liaison for roads. He explained that stormwater drains and pipes are inspected periodically, with maintenance performed on an as needed basis. When asked about Lake Road, Mayor Welsh provided an update on the schedule for paving and drainage improvements. Councilwoman Chimenti encouraged Mr. Colasurdo to alert the Borough staff of any clogged drains. Mayor Welsh noted that the Department of Public Works would be jetting the drains along Lake Road in the near future and offered to have them look at Pennbrook Road as well.

There being no additional comments, Chairman Rochat closed the public comment period.

RESOLUTIONS

- **Resolution No. 2023-28** – Circular Management Group, LLC Block 15, Lot 1.01
Those eligible: Vice Chairman Lewis, Councilwoman Chimenti, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

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, Councilwoman Chimenti, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

- **Resolution No. 2023-29** – 11 De Mun, LLC Block 13, Lot 5
Those eligible: Vice Chairman Lewis, Mayor Welsh, Councilwoman Chimenti, Ms. Layton, Mr. Koury, Ms. Humbert, Ms. Harvey, Mr. Swon and Chairman Rochat

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

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Welsh, Councilwoman Chimenti, Ms. Layton, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

- **Resolution No. 2023-30** – Professional Services Contract Change Order – Board Attorney

Ms. Goodchild explained that the resolution represented a change order from the resolution adopted at the re-organization meeting; the new not to exceed amount is inclusive of all Planning Board work as well as billable time to applicant's escrow accounts.

Mayor Welsh 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 Welsh, Councilwoman Chimenti, Ms. Layton, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

BOARD DISCUSSION

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

Mr. Banisch reminded the Board that six (6) ordinance topics were reviewed at the October meeting in connection with the Master Plan Re-examination process. Referring to his memo dated November 6, 2023, Mr. Banisch explained that it responds to those topics.

Solar Use: Based on the feedback in October, Mr. Banisch explained that his memo includes landscaping standards for ground mounted installations to block the view from adjoining properties and public rights of way. He noted that solar installations of any type are not permitted and are treated as D1 (Use) variances which requires a high burden of proof. He opined that solar is becoming a usual and customary accessory use for residential applications and, with that in mind, establishing it as a conditional use with certain performance standards may be the best approach while still requiring an application to the Board. Mr. Linnus noted that the Municipal Land Use Law recognizes solar as an inherently beneficial use therefore the best approach would be an ordinance imposing standards rather than dealing with each application on an ad-hoc basis. Vice Chairman Lewis opined that the north side would be the only location that could be screened with trees. Mr. Banisch explained that there are variables at play regarding the landscaping, including the height of the array. If an applicant is unable to conform to the conditional use standards, they would trigger a D3 variance. Vice Chairman Lewis referenced the NJDEP non-regulatory guidance from 2018 which states that urban settings are the best place for solar. Mayor Welsh opined that it is important to have standards in place as the applicant and Board work through an application process. Vice Chairman Lewis noted that he was in favor of the iteration of standards that was tested in Bedminster.

Variance Checklist: Mr. Banisch explained that the Borough does not have a checklist for variances which needs to accompany any application. In the absence of the checklist, applicants have been required to follow the subdivision and site plan checklist. Mr. Banisch provided the Board with a combined checklist prepared by Ferriero Engineering which would establish submission requirements for all of the applications to the Board. The Board agreed that this would be a recommendation in the Master Plan Re-examination Report.

Accessory Buildings, Structures and Uses: Mr. Banisch opined that the ordinance lacks clarity or forgiveness with respect to the placement of accessory structures; the idea is to develop a roadmap about what should be permitted or not. He explained that smaller lots and non-residential zoning districts have accessory building setbacks, the larger lot zones do not which means that accessory structures must conform to the principal building setbacks. Some of the standards suggested in the November 6th memo will bring some clarity to the issue. Discussion ensued regarding specific accessory structures and uses such as driveways, parking/motor courts, sports courts, steps, porches,

etc. Mr. Linnus noted that if an accessory structure is attached to the principal structure it must comply with the requirements of the principal structure.

Essential Accessory Structures (including utility, wells, septic systems, drywells, etc.): Mr. Banisch noted that these 'structures' have recently created some controversy and opined that they should be addressed; his November 6, 2023 memo provides for some guidance. He explained that the new stormwater management rules may complicate how the Borough deals with the issue. Mr. Bolio noted that many of the projects proposed are major developments and meeting both the State and Borough standards will be a burden on property owners. Discussion ensued regarding the review of certain features by the Borough Engineer and Borough Planner. Ms. Goodchild suggested requiring an escrow to cover the cost incurred by that review.

Scenic Corridors: Mr. Banisch noted that the protection of corridors in Far Hills has been used as a tool to manage and prevent changes in the landscape. Recent discussions have centered around residents being prevented from managing the area within the easement (removal of invasive species within the scenic corridors and conservation easements). Referring to page three (3) of his memo, Mr. Banisch noted that the language of the easement could be modified to make it clear that the conservation easement yields to the permitted uses in the scenic corridor ordinance; the ordinance could then be amended to permit the language suggested (removal of invasive plant species, dead and diseased vegetation and reforestation and hedgerow supplementation). Mayor Welsh opined that a 'light touch' would be appropriate but expressed concern about the ultimate oversight. Mr. Banisch noted that a member of the public suggested that the Borough aspire to a managed landscape citing Southampton, Long Island. In researching that community, residences appeared to be walled off from the public street by hedgerows and shrubs. He suggested that the Borough may want to implement a process that allows management of the area only after a plan is submitted by a landscape architect and reviewed by the Board. Chairman Rochat expressed concern with regulating the maintenance of private property. Councilwoman Chimenti suggested establishing a threshold for replacement of trees or shrubs but requiring a more formal plan for a major clean-up or renovation. Mayor Welsh suggested a replacement schedule for dead or diseased trees; a 2 for 1 replacement schedule with a requirement for a certain caliber and a native species. Discussion ensued regarding an approved planting list of native species. Vice Chairman Lewis and Mr. Koury expressed concern with over regulating.

Stream Corridors: based on the discussion in October, Mr. Banisch opined that certain activities may not need to come before the Board, particularly with accessory structures and uses. Referring to page four (4) of his memo, Mr. Banisch opined that some conservation easement lines may be infringing too deeply into manicured/managed lawns. The suggestion is that if you are constructing an accessory structure in an existing lawn area you will not be required to appear before the Board or dedicate a conservation easement (you may still need NJDEP approval). Vice Chairman Lewis noted that Tewksbury Township had a map showing all the regulated areas and it was on display for residents and Borough Officials to review. Mayor Welsh was in favor of relaxing the regulations so that residents are not required to appear before the Board but suggested a review process with the Zoning Officer and the Borough Engineer. Mr. Koury was in favor of the Borough serving as a resource to its residents. Mr. Linnus suggested that any guidance be in the form of an ordinance; the Board's authority cannot be delegated to the Borough Planner and Borough Officials. Mr. Bolio noted that the Borough has a Lot Development Plan application and some of the items referenced could be folded into that process. He also recommended redefining the definition of steep slopes so that it is

consistent between the stream corridor and the steep slope ordinances. The Board agreed that further analysis was needed.

Natural Resource Constraints Ordinance: Mr. Banisch noted that the topic has to do with potential subdivision of larger lots. Discussion ensued regarding nitrate dilution models which was the justification for the existing R-6 and R-10 zoning. A natural resource constraints ordinance helps guide the arrangement of development to ensure that large contiguous areas of environmentally sensitive lands are preserved and retained. Mr. Banisch outlined some of the mechanisms which included: lot size averaging, clustering or open lands concept. Mayor Welsh noted that the Borough needs to establish protections to safeguard against overdevelopment. Mr. Banisch mentioned that the Borough commissioned a study approx. 35 years ago which analyzed the carrying capacity of the geography; those numbers could be reevaluated. The Board agreed that further information was necessary, and Mr. Banisch was asked to provide diagrams of the concepts discussed.

Right of Way Dedication: Mr. Banisch noted that the requirement for a right of way dedication for single family homes is onerous and sometimes requires a property owner to seek a variance for minimum lot size. Mr. Bolio suggested an additional Land Management Ordinance amendment to correct the situation of requiring a right-of-way dedication for variance applications that do not involve site plan or subdivision approval.

There being no additional points to discuss, Chairman Rochat opened the meeting up to the public.

Paul Vallone, Sunnybranch Road opined that rather than weaken the scenic corridor and stream corridor rules the Borough should strengthen them as it is the biggest deterrent the Borough has to minimize overdevelopment and multiple use development. He also recommended that the Board review the tree ordinance in place.

Mr. Banisch asked the Board to give thought to the suggestion by former Mayor Vallone. When asked by Vice Chairman Lewis how the stream corridor rules keep the State at bay as it relates to low-income housing, Mr. Banisch responded that it doesn't except that the municipality can challenge the affordable housing obligation assigned based on how much development is possible in the town. There are few deductions that a municipality can make such as slopes in excess of 25%, land under water and wetlands but, he did not believe credit is given for the riparian zone. Mr. Vallone noted that in dealing with round 3 affordable housing, the riparian rights were very instrumental in the amount of land that could be developed, especially with the new NJDEP rules.

Chairman Rochat noted that the Borough Clerk forwarded an e-mail to everyone regarding the video for the Tier A stormwater regulations. Mr. Bolio briefed everyone on the transition from Tier B to Tier A for stormwater regulations (ordinances, mapping and reporting deadlines).

ESCROW CLOSING

1. Colasurdo, Block 4, Lot 3 – \$86.99

A motion was made by Vice Chairman Lewis and seconded by Mayor Welsh to close the following escrow account and recommend to the Borough Council that the balance be returned to the applicant. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Lewis, Mayor Welsh, Councilwoman Chimenti, Ms. Layton, Mr. Koury, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

EXECUTIVE SESSION

- **Resolution No. 2023-31** – 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 9:24 p.m. for matters related to litigation. Ms. Layton seconded the motion. The motion was carried unanimously.

RETURN TO OPEN SESSION

At 9:34 p.m. the Board returned to open session.

CORRESPONDENCE

1. A letter dated September 29, 2023 from Somerset – Union Soil Conservation District re: Mixed Use Building, Block 5, Lot 4.

ZONING UPDATE

- Zoning memo dated October 31, 2023 – Kimberly Coward

ADJOURNMENT

Motion by Mayor Welsh, seconded by Ms. Layton and unanimously carried to adjourn the meeting at 9:34 p.m. All were in favor.



Shana L. Goodchild, Planning Board Secretary

APPROVED 12/4/23