

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
December 4, 2023

CALL TO ORDER

Chairman Rochat called the meeting to order at 7:08 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, Suzanne Humbert, 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 Jack Koury

There were approximately fifteen (15) audience members present.

BILL LIST

- December 4, 2023

Vice Chairman Lewis 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, Ms. Humbert, Ms. Harvey, Mr. Swon and Chairman Rochat

Those Opposed: None

Abstentions: Mayor Welsh

MINUTES

- November 6, 2023 Regular Meeting

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

- November 6, 2023, Executive Session

Mayor Welsh made a motion to approve the minutes of the November 6, 2023 Executive Session meeting for content only. Councilwoman Chimenti seconded the motion. All were in favor.

PUBLIC COMMENT

Charles Schwester, Lake Road distributed to the Board, Borough professionals and audience copies of a portion of the approved plans for the Pulte project along with several photographs of the site taken from 3 Fox Hunt Court. Mr. Schwester described the photographs as depicting a 16-foot retaining wall with a four (4) foot fence constructed at the Pulte project. He asked the Board if they were aware of the wall and fencing and questioned oversight of the project by the Borough professionals. When asked what the Planning Board would do about the wall, Mr. Linnus explained that the Board is not an enforcement agency; the Zoning Officer is charged with enforcement of the conditions of the resolution. Mr. Banisch noted that he would need to review the plans that were submitted and approved before commenting. He went on to note that buffering was required and at this point of the development phase the site is inspected by the Borough Engineers. Mayor Welsh asked Mr. Bolio to have his team verify if the wall referred to by Mr. Schwester is on the approved plans as constructed. He noted that he and Councilman Coccoziello drove by the site a few weeks ago. Mr. Schwester expressed his disappointment with the Planning Board and professionals.

Sohail Khan, 3 Fox Hunt Court explained that he attended all of the meetings and there was never a wall on the plans nor was a wall discussed during the public hearing. He also noted that former Mayor Vallone's wife told him to leave the town. He invited the Board to visit his house, noting that the wall is visible from his living room and master bedroom. He also expressed concern with water that has been directed towards his property from the Pulte project. Mr. Khan concluded by saying that he wants to resolve the issue and asked for the Board's assistance. Councilwoman Chimenti noted that the comments by the wife of the former Mayor are in no way the reflection of anyone on the Board. Mayor Welsh explained that he reached out to Pulte to express his dissatisfaction. Mr. Khan again asked for the help of the Borough elected officials. Mayor Welsh offered to follow up with Mr. Khan after he has a chance to gather the facts.

Dr. Mellendick, Lake Road noted that during the public hearings he pleaded with the Board to request a scale model of the development so that residents could understand what was being approved. The Board Attorney at the time told the public that there would be an opportunity for the public to ask questions but that opportunity was not provided. Dr. Mellendick spoke of a pattern of distasteful comments and letters from past elected officials. He noted that none of the material from Pulte depicted a wall and any wall over four (4) feet would have required a variance. Mr. Linnus reminded Dr. Mellendick that if a violation exists, the Zoning Officer is responsible to investigate; the Planning Board is not an enforcement agency. Mayor Welsh noted that the Borough Council gets periodic reports from Ferriero Engineering regarding the on-going inspections. A discussion ensued regarding the approval process, change orders and enforcement of violations.

Peter Coccoziello, Lake Road asked if the applicant was obligated to return to the Board for the wall. Mr. Linnus spoke about administrative approvals. Mr. Coccoziello noted for the record that there was no wall shown on the plan set.

Ghazala Khan, 3 Fox Hunt Court asked about the resolution compliance procedure, when the wall appeared on the plans and how it was approved. She noted that the wall is visible from every room in the rear of her house. Mrs. Khan described the buffer planned along the property line of 5 Fox Hunt Court which is extensive compared to what is proposed along her property line. She also described heavy runoff from the Pulte project during a recent rainstorm and nothing was done

however, the Somerset County Soil Conservation office fined her for some silt fence on her property that had fallen down.

Jack McNamara, 247 Liberty Corner Road noted that he farms 130 acres and expressed concern with a proposed minimum lot size of 50 acres as part of the Master Plan Re-examination discussions. Chairman Rochat indicated that the Board did not discuss a 50-acre minimum zoning standard. Mr. Banisch explained that the Board had a general discussion about how to retain large open tracts of land at the time of subdivision. A few zoning techniques were discussed, including an open lands concept and lot size averaging to guide future development in such a way as to maximize the preservation of the openness and rural character. Mr. McNamara called to the Borough's attention that Bedminster has the right to restrict development on the Moorland Farms tract. Mr. Banisch opined that there was some restriction tied to an FAR variance but it may no longer be valid. In conclusion, Mr. McNamara supported the premise of large lot zoning but suggested that anyone with at least ten (10) acres be permitted to develop it in areas that are not constrained.

There being no additional comments, Chairman Rochat closed the public comment period at 8:12 p.m.

BOARD DISCUSSION

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

Mr. Linnus reminded the Board that the discussion was a continuation of the Board's worksession on the proposed re-examination report.

Change of Use/Occupancy and Site Plan Waiver - Mr. Banisch explained that anytime there is a change of non-residential use from one (1) permitted use to another, the applicant must appear before the Board for approval of that change of use. There has been some suggestion that for sites where the Borough has recently approved a site plan application and meets the Borough's standards that the applications could be processed administratively. Referencing his December 4, 2023 memo, Mr. Banisch explained that he included a provision to add to the existing change of use ordinance. By way of background, Mr. Banisch explained that the change of use ordinance was adopted in 2015 because the Borough Council became aware of a number of non-residential sites that were operating without any recent site plan approval. Mr. Banish outlined the procedure that Bedminster follows which requires the Zoning Officer and Engineer to review a proposed change of use application. He read the following into the record:

Change of Use Site Plan Waiver. Any change of use from one permitted nonresidential use to another permitted nonresidential use on a site that has obtained site plan approval on or after February 22, 2016 shall not require site plan approval if both the Borough Engineer and Zoning Officer certify that the existing site development meets the requirements of this chapter for the new use and that the new use will not create or continue any adverse effects upon neighboring properties Page 2 of 2 which, in the opinion of the Borough Engineer and Zoning Officer, cannot be rectified. The applicant for a Change of Use Site Plan Waiver shall furnish the Borough Engineer and Zoning Officer with a copy of the approved site plan, the Board's resolution of site plan approval and such other information as reasonably necessary to conduct the review. Such Change in Use Site Plan Waiver application shall require the completion and submission of a Change of Use/Occupancy Site Plan Waiver Form and the payment of an escrow fee in the amount of [\$500.00]. A certificate of occupancy shall be issued for a change of use as described herein, except that if no repairs or renovations requiring a building permit are performed in connection with such change of use, a certificate of occupancy fee shall not be

charged in addition to the change of use/occupancy fee required for the Borough Engineer and Zoning Officer to complete the review of the application and site. Where the Borough Engineer and Zoning Officer are not able to certify that the existing site development meets the requirements of this chapter for the new use, the application for Change of Non-residential Use/Site Plan Waiver shall be denied and the change of use shall be subject to Board review and approval in accordance with the provisions of this Section.

Mayor Welsh agreed with the recommendation and finds the change of use/occupancy process burdensome on property owners. Councilwoman Chimenti expressed concern with putting the discretion of permitted uses on one (1) person which may result in uses slipping through the cracks. Mr. Banisch noted that the Board may want to look at the permitted uses in the non-residential zones and make revisions to have more clarity as to the intent. Mr. Linnus agreed with Mr. Banisch that an applicant's first stop is the Zoning Officer and it can become confusing if the permitted uses are ambiguous. Mayor Welsh asked Mr. Banisch to provide the Board with some clarification on permitted uses prior to the next meeting. Ms. Humbert expressed concern that uses such as shops for cannabis or tattoos will slip through the cracks. Vice Chairman Lewis explained that the ordinance prohibits those types of uses and requiring business owners to appear before the Board is burdensome. The consensus of the Board was to explore language to permit administrative review of permitted change of uses/occupancy.

Chairman Rochat asked about next steps to which Mr. Banisch explained that he is making some revisions to issues the Board has discussed over the past few months and would have a revised draft for the next meeting. A discussion ensued regarding accessory structures in regulated areas to the extent permitted by NJDEP regulations. Ms. Goodchild noted that in Tewksbury, the Zoning Officer utilizes an internal checklist which includes reviewing online environmental mapping to help guide and educate the property owner.

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

Anthony Melillo noted that he has been before the Board for a number of change of use/occupancy applications and while cost can be a deterrent, timing should also be considered since owners can lose tenants because of the delays. He also encouraged the Board to update the permitted uses as the current terms are antiquated.

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

A brief discussion ensued regarding the scenic corridors and coordinating any amendment with the existing tree removal ordinance. There was also a discussion regarding scenic corridors and estate gates/pillars and whether they should be regulated (height, width, minimum width for emergency vehicles, etc.). Mr. Banisch agreed to bring the Board some examples for its consideration.

Mr. Linnus opined that the Board will have one (1) or two (2) more worksessions and then a public hearing is recommended for transparency and public participation; similar to a Master Plan hearing.

EXECUTIVE SESSION

- **Resolution No. 2023-32 – 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. Councilwoman Chimenti seconded the motion. The motion was carried unanimously.

RETURN TO OPEN SESSION

At 9:07 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 November 28, 2023 – Kimberly Coward

Chairman Rochat reminded everyone to watch the stormwater video sent by the Borough Clerk. Ms. Goodchild agreed to forward the e-mail again as a reminder.

ADJOURNMENT

Motion by Councilwoman Chimenti, seconded by Ms. Layton and unanimously carried to adjourn the meeting at 9:08 p.m. All were in favor.



Shana L. Goodchild, Planning Board Secretary

APPROVED 1/2/24