

**Township of Washington
BERGEN COUNTY, NEW JERSEY
Planning Board Meeting
Minutes
June 25, 2014**

Meeting Called to Order at 7:35PM

First Order of Business: Salutation to the Flag

Open Public Meetings Act: Read into the record by the Board Secretary.

Roll Call Taken:

Messrs. Dumaresq, Golick (absent), Murphy (absent), Pinnick, Sabino (absent), Councilman Sears, Chairman Calamari, Mayor Sobkowicz

Also in Attendance: Board Attorney Robert Wertalik; Board Engineer Paul Azzolina; Board Secretary JoAnn Carroll

Approval of Minutes: Pinnick, Dumaresq
June 4, 2014

Ayes: Dumaresq, Pinnick, Councilman Sears, Chairman Calamari

Abstain: Mayor Sobkowicz

July 27, 2011: Pinnick, Mayor Sobkowicz

Ayes: Dumaresq, Pinnick, Mayor Sobkowicz

August 6, 2011: Mayor Sobkowicz, Chairman Calamari

Ayes: Pinnick, Chairman Calamari, Mayor Sobkowicz

August 31, 2011: Chairman Calamari, Dumaresq

Ayes: Dumaresq, Pinnick, Chairman Calamari, Mayor Sobkowicz

Chairman Calamari: stated the application before the Board this evening is for an informal review and has not been noticed, public comment may not be heard; if any members of the public in attendance wanted to speak regarding another topic, they were welcome to do so.

Open Public Portion: Sears, Dumaresq

Ayes: Dumaresq, Pinnick, Sears, Chairman Calamari, Mayor Sobkowicz

No Public Comment

Close Public Portion: Pinnick, Chairman Calamari

Ayes: Dumaresq, Pinnick, Sears, Chairman Calamari, Mayor Sobkowicz

Discussion:

Mr. Paul Imbarrato, 191 and 195 Linwood Avenue, Block 2501.01, Lots 16 & 17: site plan matter; informal discussion.

Chairman Calamari: asked the applicant to come forward.

Mr. Colin Quinn, Attorney for Applicant and Mr. Paul Imbarrato to speak on behalf of the application.

Mr. Quinn: attorney for Stagger Lee LLC and Paul Imbarrato; here this evening to discuss a potential application relevant to 191 and 195 Linwood Avenue; the Board may recall that in September 2012 this applicant came before the Board in order to obtain a minor subdivision which was approved to allow the construction of two additional homes in addition to the existing property at 195 Linwood Avenue; at that time the Board approved a private road from Linwood Avenue going north to south/south to north up the side of the property in order to enable access to the rear of the property and specifically to two single family lots that the Board approved; Mr. Imbarrato is present this evening; he has spent time working on plans and he spent the last two years trying to make it work; unfortunately it does not; does not work economically or in the terms of what he needs to do in respect to his family and there are some land use issues that are tying things up; doing it in the fashion that was previously approved by the Board; Mr. Imbarrato still wants to pursue the spirit of the approved application; is here with a new concept plan; it is simply a concept; which shows not only the two already approved single family homes, but an additional third lot in the immediate rear of the existing home at 195 Linwood Avenue; instead of two additional single family lots, (referred to plans placed on easel); the Board previously approved the private road to be installed with a cul-de-sac along with two single family homes; this is embodied in the September 2012 resolution of this Board.

Mr. Imbarrato: stated he wants to utilize and incorporate the cabana and accessory building that was on the property; (Michelle Darcy introduced to the Board by Mr. Imbarrato); basically he would be removing the cabana/ accessory building and put in on another property; ½ lot; which would

conform; obviously two lots would be a little smaller; place another lot in and remove the secondary building he was originally planning on keeping; the main reason for this plan is economics; his firm fell into a hardship after the approvals were received; the costs from United Water went up; it did not work to be able to just do two different lots with all the approvals; the engineer is the same; counsel has changed; basically keeping everything the same; the drainage requirements are met; adding an additional lot and removing the accessory building; one property will be significantly smaller but will still be ½ acre; basic plans not changed; will probably move to the back property; shows a garage, pool and a small cabana at this property; needs to perfect the homeowner's agreement; maintaining all the property; looking to make this as simple as possible; not really affecting the neighbors because two homes are still there.

Mr. Quinn: stated there are two sets of variances that will be requested if the application is put forward; there is a private road that is being proposed; no frontage on the Township's Zoning Ordinance for proposed lots 2, 3 and 4 in the rear of the property; they have frontage on the private road not on Linwood; zero frontage because of private road; all though each has adequate frontage.

Chairman Calamari: asked if these variances had already been granted on the prior application.

Mr. Quinn: stated, "Yes"; the other set of variances is in regards to an invasion of the front yard setback with the addition of the third dwelling on the private road.

Chairman Calamari: asked if this was present on the first application.

Mr. Quinn: stated there was an extra house; same type of variances that were asked for in September 2012.

Mr. Imbarrato: stated he believes they are removing a variance because they are getting rid of the accessory building; was a cabana in the back but it is moving to a property down the road.

Chairman Calamari: asked if the applicant had had any informal discussions with the County; knows they approved the private right of way for two homes.

Mr. Imbarrato: stated he sat down with Eric Timsak; showed him the set of plans; Mr. Timsak had no issues with the third house.

Mayor Sobkowicz: spoke regarding moving the cabana; will it be removed even if Mr. Imbarrato does not move to the other house.

Mr. Imbarrato: stated that if he moves to the other house, he will be removing the cabana.

Mayor Sobkowicz: asked if the proposed addition will be left on the plans if Mr. Imbarrato moves to the other house.

Mr. Imbarrato: stated the proposed addition is for a garage to make it more of a useful house for sale; he doesn't know if he will do the addition himself; does know he needs to deal with family members; may keep the house as a rental under an LLC and put family there.

Mayor Sobkowicz: asked if drainage was recalculated.

Mr. Quinn: stated "Yes"; it was reported.

Councilman Sears: asked if water run off was calculated.

Mr. Quinn: stated "Yes."

Councilman Sears: asked where the fire hydrant would be placed with the water pressure coming up the street.

Mr. Imbarrato: stated the fire hydrant is still there.

Mayor Sobkowicz: stated she believes the exact location was supposed to be decided upon.

Councilman Sears: asked if the location of the hydrant had been decided upon and will the water pressure be enough from Linwood Avenue.

Mr. Imbarrato: stated there are a 12 inch and an 18 inch main.

Councilman Sears: asked what is coming up the road.

Mr. Imbarrato: stated a 6.

Mr. Azzolina: stated the water main size is determined by United Water.

Chairman Calamari: asked if Mr. Azzolina had any comments to add in terms of this proposal.

Mr. Azzolina: stated he discussed the classification with Mr. Imbarrato as far as how the Board will view this application.

Chairman Calamari: asked Mr. Azzolina to give the parameters for a major vs. a minor subdivision.

Mr. Azzolina: stated originally the subdivision was a 3 lot subdivision; clearly satisfied the definition of a minor subdivision; currently the application proposes 4 lots; it can reasonably be argued that it is a major subdivision based on the Township's code definition; the code defines a minor subdivision and everything else is considered major (read aloud by Mr. Azzolina); the first hurdle the applicant overcame with the original application was the language relative to the extension of any municipal improvements which would be the proposed driveway; therefore it is not a roadway; if it was a roadway originally that 3 lot subdivision would have been a major subdivision; the Board accepted the private driveway as not being a roadway, then it satisfied the 3 lot creation; the driveway argument is still in play at this time.

Chairman Calamari: asked for clarification if three lots are created or the applicant will end up with three lots.

Mr. Azzolina: stated the code states "create"; however there is no definition of creation.

Chairman Calamari: stated he wants the Board to understand what may come about.

Mr. Azzolina: stated the applicant's argument is that there are two existing lots at this time; using that as a basis, the applicant would then conclude that only one new lot would be created under the original approval, because then there were three; under this application the argument would be that the applicant is creating two new lots.

Councilman Sears: asked if there was a private road there now.

Mr. Azzolina: stated “No.”

Councilman Sears: stated a private road would be added for four houses in total.

Chairman Calamari: asked what the code stated about the road; asked if the road was part of the two or three lot definition.

Mr. Azzolina: stated if it were a road, then it would be under the heading of any new street or the extension; that makes it a major; the Board is accepting that it is a private driveway; the County accepts it as a private driveway as well; that clause does not apply here; it is simply how the Board wants to view this application.

Chairman Calamari: stated two lots are becoming four lots; the applicant wishes to create two new lots.

Mr. Azzolina: stated “Yes.”

Mayor Sobkowicz: stated there are still four lots.

Chairman Calamari: stated there are two to begin with so you created two.

Mayor Sobkowicz: stated overall there are still four lots.

Chairman Calamari: stated that is not what the ordinance states; it doesn't say what you end up with it says what you created.

Mr. Azzolina: stated “creation” is not defined; it is not defined in the MLUL either; it is a very grey area; always has been.

Chairman Calamari: asked, for the Board's edification, what the impact was if the application was reclassified as a major subdivision.

Mr. Azzolina: stated from the applicant's perspective it would be financial in there are greater fees associated with a major subdivision vs. a minor; could perhaps be a new application as opposed to an amendment of the earlier application; additional escrow fees due to additional engineering, etc.; fees are

set in the code; as far as the plan and calculations, that has already been provided under the old application; once again provided under this application; storm water management report; extensively the applicant has provided, with the minor subdivision application, the same level of detail as is required for a major subdivision in any event; the earlier approval even went so far as to acquire that approval be recorded via a map as opposed to deeds which typically minor subdivisions are recorded at the County by deeds.

Chairman Calamari: asked if that requirement of a major subdivision has already been satisfied.

Mr. Azzolina: stated the applicant hasn't moved on it.

Chairman Calamari: stated that in the end, it is up to the Board to decide if this application is a major or minor subdivision.

Mr. Azzolina: responded "Yes."

Mayor Sobkowicz: stated easements were mentioned; asked for an outline of the easements and who has the responsibility for them; has found lately, on different properties in the Township, there is an easement designation; no one knows whose easement it is; this is happening quite often.

Mr. Azzolina: agreed; lack of clarity happened in the 40s, 50s and 60s; it is now coming to roost; plans today are much more specific; primary easement for this application is the roadway/driveway easement; that speaks to that easement being to the benefit of the other homeowners.

Mayor Sobkowicz: stated if there is an easement on the private driveway, does that mean the Township has no responsibility to work on that road.

Mr. Azzolina: stated that was correct; this was going to be specified at length in the homeowner's association agreement that never got finalized.

Mr. Imbarrato: stated nothing has changed; basically the applicant will maintain the driveway; there will be a homeowner's association that he will create; approval that was originally received was the homeowner's agreement was part of the development agreement.

Councilman Sears: asked if the applicant would take responsibility for the fees of the fire hydrant and the maintenance of the fire hydrant.

Mr. Imbarrato: stated he already had approvals that the Town would take care of the sanitary and the drainage; located a drainage easement on the plans; there was an issue on Parkway Court; they are eliminating that issue for the municipality; they are connecting and hooking up the drainage flow; there is a water problem that goes from Parkway Court down to his property into the other properties; the applicant relieved, with the original design, that drainage issue; back in the 30s-60s, there was an original drainage easement that went across the property; that is being eliminated; creating new drainage and flowing out into Linwood Avenue; the Town would be responsible for the drainage easement.

Mr. Azzolina: disagreed with the statement relative to the drainage system; it was the sanitary sewer; the drainage system would be under the homeowner's association agreement.

Councilman Sears: asked for an explanation, if this is a private road and there is a fire hydrant there, how does the Town become responsible for the maintenance of the fire hydrant and the fees?

Mayor Sobkowicz: stated fire hydrant services are very expensive; being private property, why would the Town be responsible.

Mr. Imbarrato: asked how the fire hydrant situation is handled with the condos on Pascack Road.

Councilman Sears: stated some of the fire hydrants are taken care of by the condo association.

Mayor Sobkowicz: stated the Kelly Bill deals with the condo association.

Mr. Imbarrato: stated there is an existing fire hydrant; the fire issues were discussed previously; showed the new fire hydrant on the plan; runs parallel to the water line that services all the homes; asking for a simple amendment; just adding an approved ½ acre lot; wants to start construction as soon as possible; financing is in place.

Mayor Sobkowicz: stated that by adding another house, even though approval was already given for the other ones, it may affect something overall; the Town may revisit the fire hydrant issue.

Councilman Sears: stated the water pressure may be affected by the other house; the fire hydrant may have to be moved down the street; asked if there was an incline or was the grading flat.

Mr. Imbarrato: stated there is a grade change of 4 ft. down; showed direction of the water on the plans; they will be tying into 48 inch water pipes and 12 inch water pipes; a lot of water on Linwood.

Mr. Dumaresq: asked regarding the driveway/road, will the same distances be kept or will the road be made slightly larger.

Mr. Imbarrato: stated it would be 100% the same.

Mr. Dumaresq: asked if there was a fire and there happened to be many cars parked on the street, what the Township could do to gain access to the street.

Chairman Calamari: stated he believed it was a Title 39 issue and there was no parking.

Mayor Sobkowicz: stated Lt. Hackbarth had done a parking study of the site.

Mr. Imbarrato: stated the parking issue would be spelled out in the homeowner's association agreement.

Mr. Quinn: spoke to Mr. Azzolina's comments; he gave a fair interpretation of the ordinance; it is correct that there are two lots; existing two side by side equal sized lots; from the two they are making four; the ordinance does not define creation; they will be guided by counsel as to how they use words that are not defined in the ordinance that have normal every day, primary definitions; suggested that the creation means to make new; if there are two and they are going to four, that means they are making two.

Councilman Sears: stated, plus a road.

Mr. Quinn: stated plus a road, but that does not come into play; from Mr. Quinn's reading of the Township's zoning ordinance, this is a minor

subdivision and the Board does have some discretion; within the ordinance the Board has the right to treat it differently and to waive certain conditions; suggests, if this application does go forward, that the Board would take into account when they make their decision, what the applicant said this evening at the outset; this application is new and it has to go forward in this fashion for it to make economic sense for the applicant; Mr. Imbarrato is not a developer, but a homeowner; he has satisfied all of the sanitary sewer requirements; this is set forth in the September, 2012 resolution; he is going to comply with all the police requirements and Title 39; easements will be reviewed by the Planning Board Attorney, the Borough Attorney and the Borough Engineer; as much as this is a minor subdivision, this applicant has already gone through all the necessary sanitary, water, fire, emergency, police review and scrutiny of this Board and of all the respected Borough officials; in order to have this project make sense for the applicant, what he is proposing to do is use the additional space in the front yard and make another ½ acre lot; which is permitted under the Township's zoning ordinance; it doesn't further invade any of the other bulk variances; allows the applicant to have this property make sense while still respecting the neighbors knowing that he has to go through the same scrutiny with this application as with the prior one in terms of soil, water, neighbors, screening, police, emergency, etc.; also asking this Board to give due consideration to what has already been done; they are doing something that is permitted under the Township's ordinance; amending a prior approval of this Board; the points made by the Board this evening are well noted.

Mayor Sobkowicz: stated, as far as adding another house, it is better as a long driveway and it would look better with another house added; on the same token, the Board has to make sure about the flooding and water level; the water issue is very important.

Chairman Calamari: stated, in regards to procedure, the Board takes no votes tonight; (spoke to Mr. Wortalik) how does the Board represent its decision whether to agree that this is an amendment to the existing application or if the Board decides that this creativity makes it a major subdivision; does that take place at the next published meeting date.

Mr. Wortalik: stated at the Board's next meeting this can be done.

Chairman Calamari: stated that the next time the applicant was before the Board, the plans won't necessarily have been completed until he knows what

the Board is going to do; asked if he would be before the Board in a formal manner.

Mr. Wortalik: stated he believed the Board would have their input and gather their opinion prior to notice being given.

Mayor Sobkowicz: stated the Board could call for a special meeting.

Chairman Calamari: stated just this one issue, in regards to this application, could be taken up formally at a meeting.

Mr. Wortalik: stated the public input would be when there is a noticed hearing; this is conceptual; this Board can reach a decision conceptually and give feedback to the applicant; informal as to the interpretation of the ordinance and the Board's acceptance or rejection of what has been proposed; formalized at next meeting; can then decide what takes place in regards to the notice.

Mr. Azzolina: stated this makes sense to him.

No Board Members had additional comments at this time.

There was a discussion regarding the meeting schedule; it was decided that a special meeting would be held and noticed for July 9, 2014 for this application.

Mr. Quinn: thanked the Board; as the Board does consider this type of application, he asks that the Board give true consideration to what has been done in the past.

Motion to Adjourn: Sears, Dumaresq
All Board Members present approve Motion to Adjourn.

Meeting adjourned at 8:20PM.

Respectfully submitted by:

JoAnn Carroll
Planning Board Secretary
July 9, 2014