

MINUTES - PLANNING BOARD

Meeting of December 16, 2015

WORKSHOP PORTION. Ms. Anderson called workshop portion of the meeting to order at 7:37 PM.

1. COMMUNICATIONS:

1, September/October edition of the NJ Planner distributed.

2. MINUTES:

Motion to adopt the minutes of December 2, 2015 (as amended) was made by Mayor Kalnins, seconded by Mr. Aschenbach and passed on voice vote.

3. RESOLUTIONS OF MEMORIALIZATION

None

4. OLD/NEW BUSINESS

Reorganization meeting scheduled for January 20, 2015.

Mr. Giuditta clarified guidelines of Open Public Meetings Act – 5 members of the Board cannot meet to discuss an application as such a meeting would require notice and publication of when it is held. Any outside meeting discussion would be a violation. Emails are relatively new in this regard, typically if email about an application is sent and members engage, it would be a violation. He advised, if one has questions about an application, it is better not to use “mass” email as it would be a violation, and to be safe if you have a legal or planning questions call Mr. Giuditta or Mr. Hudak, if engineering call the engineer or meet with them. Is okay if a couple of members speak, but cannot be more than 5, and do not want to test limits. Broader point is that if you have a question, call the appropriate professional, and if you don’t know where the question falls, call Nick and he will direct you. Need to avoid emails regarding pending applications.

Board’s role as to storm water management, the ordinance does not require that an applicant has fully flush out the mechanism for storm water or the calculations, is not required with in the ordinance or check list. When a subdivision is heard, the only issue before the Board is whether the law allows a variance from the legal language of the ordinance and only question to be considered is whether a deviation is a substantial detriment to the zone ordinance and whether benefits outweigh the detriments. With an application where there is storm water issues, the zoning officer is the individual to determine whether an application is complete or not. In a situation with a subdivision where the plans for development are not submitted and the Board grants approval, detailed plans will be submitted to the township professionals (especially storm water management) and meet with engineer who is charged to make certain the plan proposed is the best method of dealing with that aspect. Engineer cannot know what the appropriate calculations and methodology is until detailed plans are submitted. Point is, that type of information is

considered by the engineer post hearing and is not appropriate to deny an application if not submitted at the time of the hearing. Must provide but stage of submission is important.

Discussion on Flood Committee not being part of DRC which is a technical review Board and looks for technical completeness. DRC is not a mini Planning Board and no approvals are given at that time.

MULU requires that any application over 300 feet must provide for storm water management mechanism. Cannot increase the amount of run off, the answer must be zero per our ordinance with calculations and methods.

Mr. Giuditta explained when a Board hears an application, is no different than a Judge in a Court room. Applicant deserves a fair hearing, not about public policy. Planning Board is public policy in certain situations such as the Master Plan, Ordinances, etc. Discussion on past applications and process of finding middle ground that comes out of discussion not a demand, can make certain requests as long as applicant agrees. Point with storm water management. At times will get an application with that level of detail, point is cannot deny due to the plan not submitted and cannot require for approval, as it is part of post approval process. Need to appreciate of what the Boards role is.

Carl O'Brien, Township Engineer explained post approval review and process in detail including whether rain garden is appropriate, seepage pit, soil boring results. etc.

Question posed as to how the Board can make a determination if the information is not submitted. Mr. Giuditta further explained variances on subdivisions are not granted on flooding conditions, especially given that they must meet zero no increase in run off requirement.

Mr. O'Brien explained checks on storm water detention basins are done yearly with maintenance records; this year was acceptable with next report due in the spring. Process is requirement for tier A rating of the Township.

After the Board hearing is completed, there is a process to ensure the storm water management system is managed. Applicant is not permitted to reappear for a variance. If the storm water cannot be mitigated, there are two options: redesign the retention system or reduce project. Very strict and has to be met. Storm water management takes precedence over size of development. When one gets into bigger commercial or larger residential projects, the system is not visual as the large pipes are under the parking lots providing on site storage, at times may contain an above ground system, but now most are underground and are not visible to the eye. Can only design for a 100-year storm and release explained in depth.

Workshop portion adjourned at 8:07 P.M.

PUBLIC HEARING - ROOM 107

1. STATEMENT OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

Ms. Anderson called a public meeting of the Cranford Planning Board to order on December 16, 2015 at 8:10 P.M. In Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Ms. Della Serra announced that this meeting is a regularly scheduled meeting as contained in its annual schedule adopted by the Planning Board and published in the designated newspaper as soon as possible after the Board's reorganization meeting. In accordance with the terms and conditions of the Open Public Meetings Act, adequate notice of this meeting's agenda has been provided through publication specifying the time, place and matters to be discussed/heard with the agenda having been filed with the Township Clerk and posted on the municipal bulletin board where such notices are normally posted as required. Formal action may be taken.

2. FLAG SALUTE

3. ROLL CALL

Members Present:

Ms. Anderson
Ms. Feder
Ms. Murray
Mr. Aschenbach
Deputy Mayor O'Connor
Mayor Kalnins
Ms. Pedde
Ms. Steinbach
Mr. Taylor

Members Absent:

None

Alternates Present:

Mr. Petrucci
Ms. Didzbalis

Alternates Absent:

None

Also present:

Nicholas Giuditta, Esquire; Ruthanne Della Serra, Administrator/Scribe, Robert Hudak, Zoning Officer.

1. Applicant #PBA-15-00009:

47 Johnson Avenue, LLC, Applicant

47 Johnson Avenue, Block 403, Lot 47, R-5 Zone

To permit subdivision approval with less than the minimum required lot width for each new lot which will contain new two-family dwellings (required 70.00 feet, proposed 50.00 feet) (§136-30, Attachment 1, Schedule 1).

Reports from the following municipal professionals were received and reviewed by the applicant who waived formal reading: DRC, Traffic and Safety, Environmental Commission, Engineering Department, Fire Department, Heath Department and Robert Hudak, PP, AICP.

Gary S. Goodman, Esquire appeared on behalf of the applicant. Applicant is a one person LLC, owner is Gerry Grillo who is present tonight. Application is for subdivision with less than the required width. Testimony will show zone permits two-family homes and majority of the lots in this area are undersized. Lots being proposed are in conformity with others in the area, therefore no negative impact to neighbors, area or zoning.

Anthony Gallerano, Harbor Consultants, Appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of engineering and planning.

Mr. Gallerano indicated issue is to allow two-family on lots with less than the 70-foot width, neighborhood explained (Exhibit A-1 colorized version of tax map to depict various uses in neighborhood) site is in middle of the block. Contains 47 lots and out of those 47 some are not buildable and owned by the Township, two lots are vacant lot 84 and 44 and could be compliant one family lots, area in dark brown is area of church and non-conforming use. Area in beige represents current non-conforming one-family lots and only as to lot width. Area in olive green represents nonconforming two-family lots – 10. What is left are lots that are currently single-family and conform to lot width. One and two-family dwellings are permitted in the zone - one-family on 50 foot lots and two-family on 70 foot lots. Specific area is 15 one-family and in single ownership, all are less than 50 feet. Only one lot is 64.4 feet in width and although close, does not meet.

Here to subdivide the property in question into two lots 50 feet each, and requesting variances for lot width of 50 feet while meeting all other bulk requirements.

Negative criteria explained using the tax map, what is proposed is consistent with the neighborhood, majority of street is non-conforming in some respect. Proposal does fit into the neighborhood and will not have negative impact. Two family homes are permitted in the zone and proposal will have no impact on Zoning Plan or Master Plan.

Positive criteria – special reasons for departure, need to show one of purposes of zoning need to be advanced. Under MULU in this case paragraph G states to provide a variety of agriculture, residential, commercial or industrial uses to meet needs of all NJ

citizens. Cranford is predominantly a single family residential town, many apartments built over the years, proposal provides a good in between use, as not an apartment complex and advances that criteria. Not a lot of that stock within Cranford.

Exhibit A-2 marked as colorized version of layout submitted in the application depicts the two footprints with building envelope, green area, driveway, etc. also providing two street trees and additional evergreens in each rear yard.

Engineering items to be provided – storm water management, township ordinance models the DEP ordinance with one difference which is threshold that qualifies a project as requires seepage pit, if over gets more complicated, storm water reduction, water quality, ground water recharge. DEP has higher threshold of quarter of acre or more. In this case, will need to provide more detailed management.

Strategies – nonstructural strategy for this application would be to raise the driveway for flow into the grassed area rather than toward the street or town system, will continue to grass swale; once past, goes into a collection system to underground recharge system. Believes will be fully compliant with storm water management and would have to comply with the Township and DEP requirements.

One other component flood hazard (100-year flood plain) line cuts through the property. Ordinance requires 1st floor must be one foot above flood hazard level, must be balanced fill, cannot necessarily grade the property, house will be constructed on crawl space with flood vents around the structures which will allow water to flow underneath and complies with both. If proposal is approved would have to apply to DEP for permits.

Questions posed by the Board ascertained the following:
Lot widths and uses on each were explained at request of the Board. None of the current two-families conform to lot width. Mr. Hudak explained prior to December, 2014, 60-foot lot width was allowable and 3 lots would have been conforming, change was per recommendation of the Master Plan. Will guess reason was to create less density in the R-5 zone. Two of the shorter lots and most others meet the lot depth requirement, if not exceed. Burnside Avenue generally there are is a mix of one and two-family dwellings, does not know exact count. Could build two single family homes that would be conforming in all aspects and as of right. Three family would require a use variance as not permitted in the zone. Width of each dwelling building envelope would be 35 feet and meets side yard requirements.

Initially looked at connecting drainage to the street, and engineer pointed out would need to provide additional measures, and may be used as an overflow, but will be determined in the final design. Swale will be between the two buildings. Need to have at least 25 feet of grass before the system. Could become under separate ownership and would share a system, or could have two separate systems and would be answered in the

final design. Hurricane Irene would have impacted the area. Do not have to be near a river to be in the flood plain, more a question of topography.

Vents are not in the garage nor does that portion have to be raised. A swale is a depression which collects water and is extended 25 feet and will meet water quality standards as well. DEP doesn't specify width but will be located between the two houses. Yard would be graded away from the house, water travels along swale, picked up into a catch basin then to underground retention system. Currently there is no storm water mitigation on the property.

Whether one or two family would have same footprint and same technical issues as still need to meet ordinances and could still have the same building footprint. Flood hazard elevation is 75.1 and first floor will be at 76.1.

Proposal will remove on-street parking with two being created one in garage and one in the driveway with one spot remaining on the street in between the driveways.

Confirmed limited calculations were submitted as would expand the storm water management design during the permitting process. Part of the regulations is to submit an operation and maintenance plan with homeowner required to submit a yearly report as to maintenance, etc. and is also part of DEP regulations.

Positive criteria – one-family and apartments versus two-family houses, was any research performed - not an exact count but very familiar with the town.

Will comply with Tree replacement ordinance. 12 trees being replaced (evergreens Arborvitaes) – usually 6 to 8 feet, shade trees will be 2 – 2.5 caliper.

Flash flooding in the area, increased volume - is stating proposal will not create any further issue downstream as no public system in area and therefore must all be contained on site. Analysis is based on rate of volume and must be reduced. Overflow pipe explained in depth. Precautionary and emergency measures taken. Not trying to control flash flood on the street, on site.

Does not see impact as to number of people whether two single families or 2 two-families and is not a pure single family neighborhood as well as two-families are permitted in the zone, several nonconforming. Proposed is not out of character and is consistent. Proposing 3 bedrooms for each unit.

Property directly across the street – total frontage is 50-feet each and consist of two families. Tax map does not indicate whether one or two-family just sizes.

Carl O'Brien, Township Engineer appeared and was sworn in. In receipt of the memo and appears as if the plan has changed. Mr. Gallerano confirmed it was revised

based on comments in the report and will meet all storm water management requirements as well as DEP permitting process, will submit maintenance plan. Part of Town's responsibility to handle the maintenance reports and become part of the township records and is also part of the permit process.

Proper design of the detention – will perform all perc/soil test

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with no one appearing and the matter was referred back to the Board.

John Hathaway – Asked why isn't water dumped onto Johnson Avenue rather than Burnside – water from the site will not discharge onto his property as grade does not slope to Burnside. Johnson Ave elevation of 72 and rear of the property is at 76, impossible to spill on the neighbor's property.

Ervin Hernandez – lives across the street in single family home. Parking issues on Johnson would be bringing in more cars. Mr. Gallerano advised application is not asking for relief in parking providing required amount.

No one else appeared and the matter was referred back to the Board.

Gerald Grillo, Applicant, appeared and was sworn in. He explained he is the owner of the property. Owns real estate office in town and several rental offices. Resides in Cranford.

Plans are to construct two two-family homes on what exists as 100-foot lot which after subdivision will result in two 50-foot lots. Will own himself and rent. Cannot explain demand for this type of rental within Cranford for individuals who are seeking less maintenance in high end units. In this case yards are proposed, and renters can feel like they have half of a home. Can build single-family homes with same exact drainage system and setbacks, but there is not a need for two 3,800 square foot single family homes as well as being out of character with the neighborhood.

As far as drainage – in full agreement each property should contain a separate system and not shared.

Questions posed by the Board ascertained the following:

Has no intention of selling the property, is demand for this type of rental unit. Put sign on house that currently exists on the lot and has received 15 to 20 calls. Mr. Hudak explained under condo act could convert the units, but that is not within the jurisdiction of the Board and cannot be prohibited.

There were no further questions by members of the Board.

Ms. Anderson opened the application to the public for questions, with the following appearing:

Ervin Hernandez – confirmed the properties will be rentals, will not be selling, individually holds on to his properties. Asked who will be responsibility of maintenance to the property with Mr. Grillo advising he will take care of outside maintenance as he does all of his properties. Parking, every Sunday is issue - as engineer pointed out the parking proposed is completely on the property – 8 spots. Presently no garage on property at all. Church has approached him about buying part of his property, but he believed proposal would be much better use.

No one else appeared and the matter was referred back to the Board.

Ms. Anderson opened the application to the public for comments with the following appearing:

Ervin Hernandez, appeared and was sworn in. He stated the initiative of placing two two-family homes will be an improvement to the neighborhood, row homes have become rental properties and are not well kept, does not want to see that situation in front of his home. In disagreement for the rentals. Many rental properties have been constructed, and if at 100% occupancy, maybe.

Johanna Hathaway, appeared and was sworn in. She stated have been in home for 38 years and because homes were approved with variances that permitted building on smaller lots and has impacted their yard, more muddy now then it has ever been and now partially in a flood zone which should be considered. Just because done before doesn't make it right. 12 bedrooms is a lot of impact on municipal systems.

No one else appeared and the matter was referred back to the Board.

Mr. Goodman presented his summation.

DELIBERATION OF Applicant #PBA-15-00009:

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Ms. Anderson reviewed the testimony presented.

Board comments consisted of the following:

Only concern is right now there is nothing there to help alleviate the water on the property and proposal would be beneficial as keeping the water on the site rather than permitting it to flow on the neighbor's site. Applicant could very easily build two single-family homes and would have same issues, applicant is doing everything they can to mitigate and comply with all requirements. Only issue was parking and that has been addressed on site. Believes will improve the area. Very difficult - as hears the testimony, knows the applicant will build dwellings of quality, concern is being located in a flood zone and placing 4 families where there is one. The Board reviewed the zone during the Master Plan process and increased size to prevent more density. Keep going back to one family versus four, 12 bedrooms versus 3 or 4 that currently exist. Believes point for consideration should be increase in density. Keeping in spirit of master plan, and agree.

Comparatively really have to compare as two single-families versus two two-families, however 12 bedrooms is valid point, but who is to stop a single family home being 5 or 6 bedrooms and that would be a conforming use of the property. Points made as to demand for rental specifically of this type, also work in real estate and know there is very large demand for that as Riverfront is 100% occupied. Very difficult back and forth. Also agree improving with storm water management, would be beneficial as only makes it better.

Application is for variance from 70 to 50 feet and applicant clearly showed 10 two-families with less than 70 feet and most have 50 foot. No negative impact and is really the essence of the application, drainage is ancillary and not really the primary requirement.

Property is in a flood and that is a concern, and significant demand for single-family homes and having a hard time without having the information as to flooding, although told it would be provided, but cannot tell as not submitted.

Agree with everything that has been said, agree would be an enhancement but have concerns that very recent changes in Master Plan changed lot requirements to other direction from 60 to 70 and is significant variance and was the intent for this zone.

Anything being put there will enhance the neighborhood, a mix of housing which can be seen when driving through the street, concern is with the density.

When speaking of density, are you speaking of people, as the structural density will be the same whether one or two family structure is built. Density is not going to be affected no matter what is built. Could have rental with one person or single family with 4 or 5 people.

Existing lots that are 50 feet, what is being proposed is mimicking what is currently on the street, understand density, but you could have two people in a house or 6 people in a house, and looking to what is proposed as improvement and similar to what exists in lot size.

Mr. Giuditta read law into the record that governs as to this application, not to storm water management as that element is not legally under the Board's jurisdiction. What is relevant here is whether a bulk variance should be granted, whether this application should be permitted and deviation for lot width, which is a C-2 variance. Positive and negative criteria reviewed. That is the law that should be applied to this application.

Motion to approve Application PBA-15-00009 was made by Mr. Taylor with the following conditions:

1. Will meet all SWM requirements also meet the TE satisfaction and perform perc/soil test as required.
2. Each lot will have separate storm water management systems.

The motion was seconded by Deputy Mayor O'Connor with the following voting in favor of the motion: Ms. Anderson, Deputy Mayor O'Connor and Mr. Taylor. Voting in opposition of the motion: Ms. Feder, Ms. Murray, Ms. Steinbach, Mr. Aschenbach, Mayor Kalnins and Ms. Pedde.

Motion failed to carry resulting in application being denied.

5. PUBLIC PORTION

NONE

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 9:41 P.M.

Kathleen Murray, Secretary