

West Windsor Township Planning Board

Minutes – Regular Meeting

April 4, 2018

The regular meeting of the Planning Board was called to order at 7:06 p.m. on Wednesday, April 4, 2018 by Chair O'Brien in Meeting Room A of the Municipal Building.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the Township bulletin board and filed with the Municipal Clerk as required by law.

ROLL CALL

Present: Sue Appelget
Linda Geever
Curtis Hoberman
Michael Huey
Andrea Mandel
Hemant Marathe
Gene O'Brien

CHAIRMAN'S COMMENTS AND CORRESPONDENCE

Chair O'Brien asked Mr. Surtees to review the projected meeting schedule.

PUBLIC COMMENT

No comments were provided.

APPLICATION

PB16-12

BEAR BROOK HOMES LLC

Preliminary/Final Major Subdivision and Bulk Variances

Block 9, Lots 55 & 56

106 & 110 Bear Brook Road

Property Zoned: R-3A District

MLUL: 4-5-18

(Continued from 2/7/18)

S. Appelget advised that she listened to the recording of the February 7, 2018 Planning Board discussion and is qualified to vote. Gerald Muller, Esq. stated that the applicant is proposing a rearrangement of the townhome units; therefore they were required to re-notice. He advised that the notice is in order and the Board has jurisdiction.

Steven DeRochi, owner and architect for the application, previously sworn in, stated that the townhouse design did not function properly and revisions have been made so both the MIC and FAR will be in compliance with standards.

Daniel Dobromilsky, landscape architect for the Board, was sworn in and presented his report dated 1/12/18. He stated that the plan has been revised to show the conservation easement area for the environmentally constrained lands and the greenbelt in the rear of the property. He confirmed that those lands do not affect the development area, and this is consistent with what is typically requested by the Board. There is a mature row of evergreen trees along the western property line but most - if not all of the trees - cannot be saved because of the movement of the dirt for the grading.

Pertaining to Comment #3, street trees are proposed to be planted 50 feet on center at a minimum. The proposed trees are consistent with this standard, and the applicant will be asked to plant trees with root barriers. Pertaining to plantings around the storm water basin, the proposed basins are relatively small and will be located on private property. The code envisions larger area for landscaping so it does not appear like a basin, but the applicant is not able to provide this. The proposal is to install shrubs and some trees to landscape around it, which meets the intent of the standards.

Regarding item 3d, Township code suggests that for a residential development an active open space is required and a playground space is proposed. This development is very small and the environmental constraints make this nearly impossible. The area in the back of the property is mostly conserved lands. Item 3e relates to the buffer on Bear Brook Road. Having a 50 or 60 foot buffer area to build a berm provides room for a solid screen, but this is not required. The applicant was asked to provide a 10 foot setback and this is provided along with a fence six feet in height and a hedgerow of shrubbery. It is not the same design as other developments in the area but it is similar. Mr. Dobromilsky stated that the proposed buffer satisfies the intent of the code. Mr. Muller asked if a waiver is needed for paragraph C and Mr. Dobromilsky confirmed a waiver is needed.

C. Hoberman asked if there have there been maintenance problems with other landscaped cul-de-sacs. Mr. Dobromilsky responded that there are maintenance problems, but cul-de-sacs reduce impervious surface and he recommends them. Christopher Tarr, Esq., legal counsel for the applicant, stated that the Homeowners Association will be responsible for the basins and for the landscaping within the cul-de-sac. Mr. Dobromilsky stated this is not uncommon.

Mr. Dobromilsky stated that there is a requirement for buffering the single-family home nearby, and an evergreen buffer with 6 to 8 foot high plantings are proposed to provide an immediate impact. He is not sure of the number of trees, but the number will be significant. Mr. Mueller referenced the landscape plan and stated that 120 trees are proposed as a buffer. Mr. Dobromilsky stated that this will provide a solid buffer. The species of plant to replace the arborvitae should be deer resistant. He advised that a performance bond will be requested for the landscaping. He advised that landscaping is required to screen the conservation area and delineate the line so the resident knows where the conservation line is.

Chair O'Brien referenced the report from Fire Marshal Yates, dated 1/4/18, in which approval was recommended; but it was noted that the addition of fire connections in the townhouses should be in the front of each building. All trees must be positioned so they will not restrict access by the fire trucks.

Mr. Muller read all of the variances that are required including MIC; lot size (lot 55.12); lot width (lot 55.12); lot frontage (lots 55.11 and 55.12); and, a variance for the height of the fence.

Mr. Muller stated that the application requires six design waivers and two submission waivers and identified the waivers that are being requested: plantings around the basin perimeters; a playground must be provided and the applicant is not providing a recreation area; a 36-foot landscape island is required within the cul-de-sac, while a portion of the area is to be utilized for on-street parking; turnarounds for vehicles are required for all residential lots, and none are proposed for the townhouse lots; outdoor private living spaces are required, the applicant is proposing a 10 foot long privacy fence running back from the house; identification of at least two permanent benchmarks should be provided on site, but the applicant is showing only one benchmark; and, utility layouts should be identified. The storm water management areas are required to be integrated as aesthetic landscape features, and the two basins proposed do not meet this standard. Ms. Muller, applicant's engineer, referenced the report from Township Engineer Francis Guzik, dated January 16, 2018, and stated that Mr. Guzik recommends approval of the waiver for one benchmark and a deferral on the utility installation until construction.

Chair O'Brien asked about the recreational facilities, asking if there is any space on lot 55.12 to provide this. Mr. DeRochi responded that there is a spillway, so this is not possible.

L. Geevers asked if the affordable housing unit provides 750 sf for a two-bedroom unit. Mr. DeRochi stated that they went back and did a redesign for a workable plan. Originally the unit had a long activity space, but with the new configuration it was difficult to get a kitchen in, so he increased the size of the lot to support an 800 sf unit. The layout is improved, because the living room space and kitchen can now be stretched across the back. The two-bedroom unit is 800 sf and the three-bedroom unit is 1000 sf.; both are within the FAR permitted. He advised that the plan has not been reviewed by the professionals. He then distributed the revised site plan (Exhibit A-5).

L. Geevers asked if a homeowners association will maintain the affordable units. Mr. Tarr stated that they will be on separate building lots. Although there is a common wall, the roof maintenance would be the primary issue. Siding will have a restriction that the color of the units be the same. The size and the scale of the building will be the same as a single-family home. Basic maintenance will be done as a capital expenditure and it will be a separate document since it involves the affordable units. Mr. DeRochi stated that barrier free access is provided in the bedrooms. A garage cannot be provided, because of the FAR and the location would be in front of the bedroom unit which is not ideal. Mr. Mueller stated that code permits a much denser development, but due to the environmental constraints the density is reduced.

Mr. DeRochi advised that electric baseboard heating for the low income units are proposed, cooling is not required, LG was suggested. Mr. Muller asked if the applicant is willing to provide central air for the affordable units. Applicant will provide central air rather than new residents having to buy window units. Mr. DeRochi presented the elevations of the affordable units from Bear Brook Road and Bruestle Court.

M. Huey stated that the new plan works much better. C. Hoberman asked that storage space be provided. L. Geevers recommended placing the kitchen in the front of the building and Mr. DeRochi responded that the design offers access to the backyard.

Mr. Tarr recommended one governance structure for the development; capital improvements and

replacements are the only reasons for a separate homeowners association. Dues will be required for the association; special assessments can be put in place for maintenance of the roofs and siding and to pay for landscaping. A sinking fund needs to be set aside for money for roof replacement for the affordable units.

M. Huey asked if the homeowners association regulates how the common parking spaces will work. The HOA documentation should include entitled parking information for the limited number of on-street parking spaces. Mr. Tarr responded that they are one space short of providing one space per home and questioned how this can be regulated. Mr. Surtees advised that there are major parking issues in the Windsor Haven development because there are insufficient guest parking areas. M. Huey recommended a condition of approval to assign the parking spaces on the street for certain residences and visitors.

The meeting was opened to the public.

Council President Miller was sworn in and asked that bike storage be located in a safe and secure area. She also asked how difficult it would be to make the second floor of the affordable units slightly larger. Mr. DeRochi advised that a sloping roof is proposed, they can increase the size but this impacts the FAR. He is happy to work with consultants to expand these units, if this is recommended. Each patio space has room for a bike and a post so the bike can be secured. H. Marathe stated that he lived in an affordable housing unit when he was growing up; he cannot understand why room is needed for a bike, because room is more needed for a person. He asked that the resident decide what he wants with the extra space. If bike storage space is desired by the Board, a solid wall separating the two affordable housing units can be considered.

Farrell Delman, resident and adjacent property owner, asked to address the Board. C. Hoberman stated that he has worked with Mr. Delman in the past and feels that this is not a conflict.

Mr. Delman was sworn in and stated that he had distributed a document (Exhibit O-1) about where he stands on this project. He also stated that he hired Robert Korkuch, Engineering/Planning Consultant - Act Engineering, to prepare a design addressing the parking issues, FAR and MIC constraints. He suggested that they flip the townhouse development from 55.01, 55.02 and 55.03 (10,640 sf) to 55.10 (15,000+ sf) so the FAR and MIC variances disappear. Mr. Delman stated that the developer did not contact the neighbors about the plan for this development. A three-page summary of the recommended changes was distributed to the board (Exhibit O-2). He feels that the design is imposing, and trees are destroyed in the process. The redesign requires an adjustment to the second basin, but this is not too much different than what is being proposed. Given the density and the number of buildings, he requested an additional solid landscape buffer on his property a few feet away from the 6-8 feet of arborvitae that is proposed. He asked that the applicant make an effort to save trees. Mr. Dobromilsky stated that he is unsure if this is possible, but the smaller trees can be replanted if they are lost, and the locations of the trees will be chosen by Mr. Delman.

Mr. Delman stated that he looked at storm water runoff; there seems to be a lot of opportunity for runoff. 100 year storms take place more frequently, and he has concerns about the well becoming contaminated. He is hopeful that farming will be able to continue; he suggested bio-remediation methods and a restriction on toxic chemicals on the lawns. He requested that the deed be formed to address these items.

Rob Korkuch, Engineer and Planner for Mr. Delman, presented a sketch plan of his conceptual redesign of this parcel (Exhibit O-3). He stated that the redesign reduces the impact to Mr. Delman's property because the townhomes are moved to the other side of the property and are not immediately adjacent to the single-family dwelling. The redesign also eliminates all waivers and variances. Storm water management is proposed but there is very shallow groundwater and recommended testing of the groundwater.

Mr. DeRochi stated that the lots will not conform; the plan is not the proper configuration; and the 30 foot setback including the slope provides no buildable area on the lot. Ms. Mueller stated that she has layout concerns; the front lot line is perpendicular to north and south, but per the survey the line is skewed about 25 feet from north to south; so this redesign will impact the layout of the proposed townhomes and may impact the other lot lines. The lot lines should be perpendicular to the street, but the townhomes will face towards the neighborhood and not be perpendicular to the roadway; therefore, more than a 90 degree turn would be needed to enter the driveway.

Joseph Burgis, planning consultant for the Board, stated that reviewing the concept plan lot line adjustments are possible around the cul-de-sac to compensate for the 30 feet, but he is unsure if the design is do-able.

Francis Guzik, Engineer for the Board, stated that it is difficult to comment about the concept plan. He believes it will require altering the basin configuration and skewing the front property line. Storm water approaches and road alignment are the same.

M. Huey asked if storm water runoff will occur on the adjacent property. Mr. Guzik stated that the applicant is building up the land for the homes; swales in the rear and a berm along the property line will contain all of the storm water on the property, and none will go on the adjacent property.

Mr. Kochenour stated that there is not a great advantage to readjusting the subdivision lines. Parking is a large concern. The previous plan provided three driveways on the north side, fire emergency access and three on-street parking spaces. The alternate plan wipes out any opportunity for on street parking. Although additional parking areas are provided for the townhomes, on-street parking is more important. Regarding the concept plan presented from Mr. Delman, nothing is to be gained from a traffic perspective.

Chair O'Brien recommended a traffic calming device at the entrance. Mr. Kochenour stated that there is a painted crosswalk on Bear Brook Road and Bruestle Court and felt that it may be possible to make this a more visible crosswalk. He then identified other traffic calming measures that could be considered.

Mr. Dobromilsky stated there is no great improvement with this redesign and another variance may be required with the 30 foot adjustment to the property line off Bear Brook Road.

M. Huey asked if additional landscaping will help hide the view of the townhomes for Mr. Delman. Mr. Korkuch stated that anything to soften the view would be helpful, but he is unsure there is any landscaping that would fully buffer the view. Mr. DeRochi advised that the building height is 25 feet, but due to the grading the structure will be only 15 feet high. Landscaping 15 feet high would obscure the visual of the townhomes for Mr. Delman. S. Appelget recommended a berm with a fence to buffer.

Mr. DeRochi stated that there is no room on his property for this but there may be some on Mr. Delman's property. Mr. Delman advised his home is close to the property line. Mr. DeRochi agreed to try to maintain as many of the existing trees as possible. Four or five trees can be saved and this will help screen the property. He will work out a solution or give him money (up to \$10,000) for this improvement.

Mr. Tarr stated that there was a comment in the professional reports about the ownership of Lot 55.11 and 55.12; he advised that the lots will be dedicated to the Township. Mr. Dobromilsky advised that 55.11 should be the responsibility of the homeowners association and the rear of Lot 55.11 will require an easement or the land deeded to the Township, and Council must accept the land. The easement will restrict development in that section of land.

Mr. Muller asked if a fee simple acquisition is recommended. Mr. Dobromilsky stated that both work; this is a stronger way to preserve the land. There would be no maintenance cost except to maintain the trail; and, if either adjacent properties are developed in the future, we will ask for a dedication. For now there are restrictions, because they are privately owned. H. Marathe stated that it will be deed restricted, but the owners still own the land. This had been done for another development on Bear Brook Road.

Mr. Surtees stated this is an opportunity for the town to own everything on one side of Bear Brook Road. Mr. Muller suggested the applicant offer the parcel for dedication so Council can make the decision about acquisition. Mr. Guzik asked about ownership of the road because, if the Township owns it, then they must maintain it. His preference is for the Homeowners Association to oversee the maintenance. L. Geevers stated that, if it is a private road, then it would be the responsibility of a Homeowners Association. Mr. Tarr stated that the applicant accepts this, but they may go before Council and request that the town take ownership of the road.

Motion was made by L. Geevers and seconded by M. Huey to require that the roadway will be owned by the Homeowners Association. Board discussion took place. Motion was approved by voice vote. It was determined that this matter will be forwarded to Council as a recommendation because Council must make the final decision on this matter.

M. Huey stated that with a farm next door there may be times when the smells from the farm are troublesome for the residents. Mr. Muller stated that when living adjacent to an active farm this is anticipated. Mr. Tarr stated that the applicant will disclose there is an organic farm next door when the individuals come in to sign the paperwork. L. Geevers stated that the Delmans requested that no toxic chemicals be used on the land for fertilization. Mr. Tarr stated that there will be no water runoff from this site to the farm. Mr. Delman stated that surface water is not the concern; it is the run-off that finds its way into the well. Pesticide use is a concern; and now they are concerned about unlocking all of that pesticide down to the water levels that they use for irrigation. Mr. Dobromilsky stated that some of this is beyond his expertise but the area treated with pesticides is diminished greatly. He is unsure if there is an issue or not. The chemicals used today for residential are largely made to not be active a long time.

Motion was made by M. Huey to approve the application and H. Marathe seconded the motion to approve the subdivision subject to conditions including but not limited to:

AFFORDABLE HOUSING

The affordable units shall have central air conditioning.

The applicant, working with the staff, shall make a good faith effort to make the second floor bedroom in the two-bedroom affordable unit bigger.

There shall be one homeowners' association for all ten dwelling units with a provision in the HOA documents indicating that there will be a sinking fund for outside capital repair and replacement of the town house unit roofs.

The same siding material, including color, shall be used for all of the townhouse units.

The sizes of the affordable units shall be shown on the plans.

OPEN SPACE PRESERVATION

The applicant shall offer to dedicate Lot 55.11 to the Township.

The applicant shall grant an easement to the Township over Lot 55.12 for access by Township personnel and the public to Lot 55.11.

The applicant shall grant an easement to the Township and the public for use of the road if dedication to the Township is not accepted.

LANDSCAPE

Smaller trees near the Delmans' property line shall be replanted in locations acceptable to the Delmans.

A higher berm and more landscaping on the Delmans' side of the property line shall be installed. The applicant shall work out a solution with the Delmans and give them up to \$10,000.00 so that they can implement the work.

The applicant shall attempt to save four of the five trees to be removed.

The final landscape plan shall be subject to the review and approval of the Township Landscape Architect.

HOA documents shall provide that the HOA is responsible for maintaining the buffer vegetation on the perimeter of the project.

MAJOR SUBDIVISION APPROVAL

The second permanent benchmark on the opposite side of the development from where the first permanent benchmark has been installed shall be put in place at the time of construction.

Information as to the size and location of the existing water and gas mains on Bear Brook Road to which the development will connect and the subsequent pavement repair dimensions shall be provided at the time of construction.

The formal language of the easements shall be subject to the review and approval of the Board attorney.

Separate metes and bounds descriptions with closure calculations for all lots, including the townhome lots, and for all easements and dedications shall be provided to the Township Engineer for his review and approval. The final major subdivision plat will be reviewed in detail in conjunction with these documents once submitted.

STORM WATER MANAGEMENT

The homeowners' association is responsible to maintain the section of the structurally reinforced sidewalk, since the storm water is designed to flow from the roadway under the sidewalk into the infiltration basins by way of a 3 foot wide open concrete channel.

A Maintenance Manual must be incorporated into the homeowners' association documents.

A 15 foot wide drainage easement is required for a common swale to handle runoff from the rear yards of Lots 55.07 through 55.10 toward the open space behind Lot 55.07. It shall among other things require the owners to maintain the area in accordance with the original construction, prevent any modifications to the grading of the areas. The Township will be given the right to enter into the area as required from time to time for inspections and maintenance. A similar easement area shall be provided along the rear yards of Lots 55.01 through Lot 55.06. All easements shall be subject to the review and approval of the Board Attorney and Township Engineer.

The maintenance of all storm water management elements on proposed Lot 55.12 shall be the responsibility of a homeowners' association.

Infiltration basins on proposed Lots 55.01 and 55.10 are located on privately-owned lots. The storm water management facilities on private lots shall be maintained by the homeowners' association. Drainage easement areas shown on the plans shall include the obligation and responsibility and the right of access by the homeowners for maintenance and the Township for emergency repairs if the HOA is not responsive. Such shall be included in the easement instruments, which shall be subject to the review and approval of the Board attorney.

UTILITIES

The proposed sanitary sewer connection into the municipal collection system is to be made at the existing manhole located within the Bear Brook Road right-of-way. A request for sewer capacity reservation shall be submitted to the Township Engineer for Township Council action. The projected flow is below the amount that triggers an NJDEP Treatment Works Approval.

OTHER

The privacy fences to be installed along the frontage shall be almond colored.

The homeowners' association documents shall be subject to the review and approval of the Board attorney.

A deed notice shall be provided to all purchasers of the units that organic farming is being undertaken on the Delman property.

The New Jersey Flood Hazard Regulations have recently changed, allowing owners to request a permit for expansions. A deed notice for the lots whose rear yards are in the flood hazard area shall so indicate, and the plans shall detail what would be permitted. Before any development in such area occurs, the homeowner must secure a DEP permit.

All construction details shall be subject to the review and approval of the Township Engineer.

Outside agency approval for Mercer County Planning Board; Mercer County Soil Conservation District, and Delaware and Raritan Canal Commission.

The position of the fire department connections that supports the fire sprinkler systems in the townhomes shall be at the front of each building.

The applicant shall limit the number of trees in close proximity to the buildings as they restrict access by the fire department.

All marked exhibits shall be transferred to the Division of Land Use Office prior to issuance of a building permit.

An easement acceptable to the Board Attorney shall be recorded for each easement shown on the plat or plan.

Any open space dedication shall be accomplished by separate deeds of dedication recorded prior to release of performance bonds.

The vote was 7-0 in favor. Motion carried.

FOR: Appelget, Geevers, Hoberman, Huey, Mandel, Marathe, O'Brien

AGAINST: None

ABSTAIN: None

H. Marathe stated that he wished the owner spoke with the adjacent property owner before the hearing. Chair O'Brien advised that the egress on southbound Bear Brook Road was a concern of his in the beginning. Mr. Kochenour stated that because of the narrowness of egress lane and degree of turn needed to make this turn, this design was more appealing.

Being that there was no further business before the Board, Chair O'Brien adjourned the meeting at 10:25 pm.

Respectfully submitted,

Kerry A. Philip
Recording Secretary