

**BOROUGH OF SPRING LAKE HEIGHTS
REGULAR PLANNING BOARD MINUTES
VIRTUAL MEETING MINUTES**

October 21, 2020

7:00 P.M.

Flag Salute

This meeting is called pursuant to the provisions of the Open Public Meeting Law. Notice of this meeting was included in a list of meetings sent to the Coast Star and Asbury Park Press, posted on the bulletin board in the Municipal Building and on the Borough website.

Roll Call:

Also Present:

Stephen Clark - Absent
Roy Francolino – Absent
Frederic Manger – Present
Nancy Hayduk – Present
Mayor Campion- Absent
Adam Anzzolin – Present
Peter Gallo - Present
Councilman Christopher Willms - Present
Eileen Eilenberger, Chairperson - Present

Marc Leckstein – Board Attorney
Mary Ellen Karamus, Board Secretary
Brent Papi – Board Engineer
Jennifer Beahm – Board Planner

Alternate #1 Elizabeth Stader – Present
Alternate #2 Joseph Tompey - Present

Approval of Minutes: September 16, 2020 – Pulled from Agenda

Correspondence:

Discussion: Schedule November Meeting - The Board decided that there will be a November 4, 2020 meeting

New Business: **Application No. 2017-04A**
JDE Spring Lake, LLC – The Mill
Block 1 Lot 1
Proposed redesign of parking facilities and addition to existing building previously approved. Changes to approved plan proposed

Mr. Leckstein stated that the Mill has requested to be before the board on November 4.

On a motion by Ms. Stader, seconded by Mr. Gallo, Application No. 2017-04A, the Mill will be carried to the November 4, 2020 meeting with no further notice:

AYES: All in favor
NAYS: None
ABSTAIN: None

Chair Eilenberger stated the procedure regarding time limits for people speaking and asked people to be concise and allow others to speak. Mr. Leckstein reviewed the meeting procedure.

Old Business: **Application No. 2020-02**
Christopher Spagnoli
Block 39 Lot 76
402 Sixth Avenue
Subdivision

- A-7 Revised minor subdivision plan revised 9/28/2020 (formerly A-4)
- A-8 Revised Minor Subdivision plan revised 9/28/2020 (formerly A-5)
- B-3 Sketch by Mr. Manger

Mr. Rubino stated that the application plans have been revised since the prior meeting resulting in the porch being taken off so the rear yard setback will now fit. Mr. Rubino added that a little over 5 feet have been taken off the house so there will be a 10 feet separation between the end of the existing house and the end of the property line, reducing the coverage to a permissible amount. Mr. Rubino added that the remaining variances are for the lot depth for where the house is and existing front yard setback. Mr. Rubino stated that the new lot will be fully conforming.

Mr. Leckstein confirmed that the side yard setback variance and maximum building coverage has been eliminated so the only variance required is minimum lot depth and minimum front yard setback.

Mr. Manger entered the meeting

Mr. Kociuba, previously sworn and qualified, stated the changes to the plan are that the existing enclosed rear porch has been removed so there is no longer a preexisting nonconforming rear yard setback; and 4 ½ feet of the left side of the existing dwelling on the north side will be removed eliminating the requested side yard setback variance. Mr. Kociuba said that with the removal of the two areas, building coverage is reduced so the building coverage complies.

Mr. Kociuba stated that more accurate dimensions have been added to the plan, specifically the side yard setback on the existing home, the right-side side yard setback on the southern side. Mr. Kociuba said that the original survey did not have topography and showed the setback at 26.5 feet; however, a further updated survey, provided by the applicant's surveyor, showed 26.1 feet. Mr. Kociuba stated that there was an error in measurement location. Mr. Kociuba said that the correct side yard setback is 26.15 feet and that is shown on the revised plan. Mr. Kociuba stated that the dimension across the house, the width of the house has also been provided for more accurate dimensions. Mr. Kociuba stated that with the north side of the existing building being removed, any fire code issue regarding the setback of the building from the property line is eliminated since there is now a 10-foot setback.

Mr. Kociuba stated depth variance on the east side of the lot is still required as well as front yard setback, which will not be changed. Mr. Kociuba stated that his previous testimony from the previous meeting regarding variances still stand and he believes that they can be granted under C1 and C2 criteria. Mr. Kociuba added that the dwelling, the front yard setback and depth are all existing nonconformities unique to the property. Mr. Kociuba stated the variances can be granted; there will be no substantial detriment to the zone plan or zoning ordinance and no substantial detriment to public good. Mr. Kociuba stated that the new vacant lot will be fully conforming. Mr. Kociuba stated that the proposed dwelling, shown for reference purposes, will fully conform and that no variances are being asked for on the new proposed lot Lot 76.02. Mr. Kociuba added that the new lot is 7,800 square feet which is in excess of what is required. Mr. Leckstein, asked Mr. Kociuba to clarify the fire issue which was discussed at the prior meeting. Mr. Kociuba stated that by removing 4 ½ feet of the existing home and providing a full 10 feet setback, that deals with any fire issue.

Chair Eilenberger asked if there will be possible land disturbance as referenced in the plan. Mr. Kociuba stated there will be land disturbance once the new lot is developed. Mr. Kociuba stated that the subdivision does not

create the disturbance, it creates the lot line. Mr. Kociuba added that a plot plan would have to be submitted to the borough for approval before installing a home. Chair Eilenberger asked Mr. Kociuba how much patio surface is in the rear of the existing house. Mr. Kociuba stated that the patio extends into the rear area going behind the garage and across the entire rear and sits approximately 2 ½ feet off the fence at the rear of the gore. Chair Eilenberger asked if the patio sits on the gore area. Mr. Kociuba stated yes, and it probably has for 50 years. Mr. Kociuba added that there is no increase in impervious coverage.

Mr. Rubino stated that Mr. Spagnoli has agreed that the patio can be cut back to where it will conform off the rear line setback. Mr. Kociuba stated that the patio can be set back to the property line. Chair Eilenberger asked if a deck past the end of the enclosed porch to the north will stay. Mr. Kociuba stated that the deck will stay. Mr. Manger asked what would happen if the existing home burnt down. Mr. Kociuba stated that the conforming building envelope is about 30 feet deep. Mr. Manger stated that leaving 20 feet by 30 feet for a house is not sufficient for the neighborhood. Mr. Manger showed a sketch he prepared.

B-3 Sketch – Exhibit by Mr. Manger

Mr. Kociuba stated that a number of scenarios were looked at for the property. Mr. Kociuba stated that from looking at B-3, that would increase the number of variances as opposed to the two variances. Mr. Kociuba added that both of those are existing conditions.

Mr. Manger stated he is concerned that by making one lot and destroying the other, it is a problem. Mr. Manger added that that would not be an improvement to the town. Mr. Rubino stated if the house burns down, destroying more than 50%, it would lose its nonconforming status and the owner would either have to build a conforming house, or go to the board of adjustment to seek relief and put the house where it was.

Ms. Beahm stated that unless the house is somehow destroyed, the existing house is not moving, and a front yard setback variance is needed whether it is the applicant's or Mr. Manger's layout. Ms. Beahm added that from a planning point of view, flag lots are not recommended, they are not an ideal planning alternative. Mr. Manger stated that sometimes you have to deal with a flag lot. Mr. Manger stated that the front property is virtually unusable.

Mr. Rubino stated his client will not agree to what is shown on B-3.

Ms. Stader asked if the title search affects the latest revision. Mr. Kociuba stated that the area of questionable title has not been used in any dimensions, any calculation provided, or any setback. Mr. Kociuba said that the assumption is that it is not owned by the property owner. Mr. Kociuba added that calculations have only been based on what the owner has title for.

Councilman Willms asked about stormwater runoff in relation to the adjacent property behind the new lot. Mr. Kociuba stated they are proposing a drywell system for the proposed home. Mr. Kociuba added that the only area running to the back corner is existing. Mr. Papi stated that as a condition of approval, the grading plans will be reviewed by the borough engineer prior to construction. Mr. Papi said that there will be a more detailed drawing showing elevations, the drywells further detailed and that the current plan shows more of a basic scope of work. Mr. Papi said that, should the project get approved, comments in the report will be flushed out as part of final compliance. Mr. Papi added that ultimately there will be a formal grading plan review. Mr. Papi referred to a waiver in the report. Mr. Gallo asked Mr. Papi if, with the changes in the plan, fire hazard problems raised at the last meeting were resolved. Mr. Papi stated that based on building codes, as Mr. Kociuba had stated, the applicant is now providing the full setback, which is 10 feet on each side, so it is not a concern. Mr. Leckstein asked Mr. Papi about the waiver. Mr. Papi stated, referring to Number 22, a waiver has been requested for delaying soil testing until time of plot review, as well as the designing of the grading plan and drywells to comply to NJDEP BMP, which would be part of the waiver which will be done during plot plan review. Mr. Papi stated he has no objection to that. Mr. Papi stated himself or the borough engineer will be reviewing that. Mr. Papi added that as a part of the drywell design, applicant will be required to be 20 feet away from the structures. Mr. Papi said he is not sure if the existing or proposed dwelling will have a basement, but the drywells will be setback at least 20 feet from the structure to prevent ground water mounding. Mr. Kociuba stated there is no objection to that.

Christopher Spagnoli, sworn by Mr. Leckstein, stated that after speaking to his professionals regarding removing the rear and side of the premises, that there is definitely work to be done but it is not overly involved.

Mr. Manger stated that makes him more comfortable, but one piece of the property is being made great and the other piece trashed. Mr. Spagnoli stated that if the house did come down and the old footprint could not be used, he looked at home plans that would fit that, in a very worst case scenario, would be doable. Mr. Spagnoli stated that he understands what Mr. Manger is saying though.

Voice of the Public Open

Sharon Batteau, 1719 Beverly Avenue, previously sworn, stated that in addition to her comments at the previous meeting on the application, she would like to know if it is a good idea to create nonconforming lots; isn't it a detriment to public good. Mr. Leckstein stated that a nonconforming lot is not being created, it is already existing and is not being changed. Ms. Batteau stated that the lot would have a 25-foot-wide backyard and that does not protect the integrity of a buildable lot. Ms. Batteau stated that the property is a sweet spot of Spring Lake Heights. Ms. Batteau stated she does not understand, with an irregular lot, why not build one house and not create a nonconforming lot by subdividing the lot. Ms. Beahm stated that she understands Ms. Batteau's point that the back yard may be nonusable in Ms. Batteau's opinion, but in this case, the lot is conforming. Ms. Beahm suggested Ms. Batteau change her wording and not use the term nonconforming. Ms. Beahm stated the lot is conforming and that applicant is now seeking relief under 2 bulk variances for existing conditions with the existing house. Ms. Beahm added that they have nothing to do with the lots themselves; that the lot line being proposed to create the additional lot is not changing that situation at all. Ms. Batteau said it is nonbuildable for building in Spring Lake Heights. Ms. Batteau added that it is a lovely amount of land where one house with a beautiful yard would fit and to split it will make it out of place. Ms. Batteau said that perhaps it is strange and not what she knows to be a buildable lot in Spring Lake Heights.

Mr. Kociuba left the meeting.

Ms. Beahm stated the house exists and it is being modified in a small way; however, there is no proposal to demolish the existing structure in its entirety and then reconstruct something brand new. Ms. Beahm stated it should be understood that there is an existing house; when creating a conforming lot with a house on it to say it is unbuildable is difficult. Ms. Beahm added that she understands the perspective as far as a usable back yard and fitting in with the character of the neighborhood or consistency with the development pattern but as far as unbuildable and nonconforming, that is not the case.

Ms. Batteau stated she is concerned and knows of other towns with developers changing the perspective of the town. Ms. Batteau said she agrees with Mr. Manger that another choice can be made. Ms. Batteau said she does not understand condoning slicing and dicing in the town.

Ms. Batteau thanked the board.

Lynn Milkowski, 406 Sixth Avenue, previously sworn, stated she would love to see a beautiful house on the lot next to her and she is glad that the 5 feet was changed to 10 feet so it is not as close. Ms. Milkowski stated that the outside of the house looks lovely but is not nice inside and it is just a cash cow for the rental and it will never come down.

Voice of the Public Closed

Mr. Rubino stated that by looking at the property, it is common sense to ask to create the new lot. Mr. Rubino stated that the existing house lacks depth but it has been there 60-70 years; people have lived there. Mr. Rubino stated that by taking the porch off, they now have a conforming backyard, and by taking 5 feet off the north side of the house, there is now a conforming setback to the new lot. Mr. Rubino added that the new lot will be fully conforming and that building coverage issues will be fully conforming.

Mr. Rubino stated that by correcting some existing conditions and creating a new conforming lot, for planning reasons as stated by Mr. Kociuba, there is ample reason for the board to look favorably on the application

Mr. Papi said that the resolution, if the project is approved, should state that all comments in his report are to be addressed.

Ms. Beahm stated that the changes the applicant has proposed between the last meeting and this meeting are an improvement over what was proposed; the two lots are conforming. Ms. Beahm said that whether the subdivision was proposed or not, they would be what they are. Ms. Beahm stated she takes no exception to the application.

Chair Eilenberger asked Mr. Leckstein the procedure.

Mr. Leckstein stated that if the board wants to make a motion to approve or decline the application, the conditions will be that they have to conform to the plans submitted, the comments in professionals' letters must be adhered to, and noting that there would be a waiver of Comment 22 as to delaying the drywell soil inspection until the plot plan review.

On a motion by Mr. Manger to approve the application with the conditions stated by Mr. Leckstein, seconded by Councilman Willms, roll call taken as follows:


AYES: Mr. Manger, Mr. Anzzolin, Mr. Gallo, Councilman Willms, Ms. Stader, Chair Eilenberger.

NAYS: None.

ABSTAIN: Ms. Hayduk, Mr. Tompey

Adjourn: On a motion by Councilman Willms; seconded by Mr. Gallo, the meeting was adjourned without objection at 8:08 p.m.

Respectfully submitted and approved:



Mary Ellen Karamus, Board Secretary

Date: December 16, 2020