

BOROUGH OF SPRING LAKE HEIGHTS PLANNING BOARD

Minutes

October 13, 2021

Meeting commences at 7:00 PM

Announcement:

THIS MEETING IS CALLED PURSUANT TO THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, PUBLIC LAW 1975. ADEQUATE NOTICE HAS BEEN PROVIDED TO THE COAST STAR AND THE ASBURY PARK PRESS, POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND THE BOROUGH WEB-SITE. NOTICES ARE ON FILE WITH THE BOARD SECRETARY. OFFICIAL ACTION MAY BE TAKEN ON THE MATTERS LISTED.

A. Flag Salute

B. Roll Call

Board Members Present: Chair Eileen Eilenberger, Brian Brendle, Councilman Wilms, Bruce Waitzel, Elizabeth Stader, Dennis Pearsall, Nancy Maclearie, Adam Anzzolin, Joseph Tompey, Thomas Martin

Board Members Absent: Mayor Campion, Roy Francolino

Board Professionals present: Mark Kitrick, Esq, Lou Lobosco, PE, Christine Bell, PP, Barbara Van Wagner, Secy.

C. Approval of Minutes: July 14, 2021

Motion to approve: Councilman Wilms Second: Chair Eilenberger

In Favor: Brian Brendle, Elizabeth Stader, Bruce Waitzel, Councilman Wilms, Chair Eilenberger

Opposed: none

D. Discussion:

Board discussed whether to continue meetings virtually or go live

Nancy- have big applications-would prefer virtual

Bruce- would like to have live meetings

Dennis- suggested continue virtual meetings until the end of the year

Motion to continue Planning Board meetings virtually until the end of 2021: Dennis Pearsall

Second: Elizabeth Stader

In Favor: Brian Brendle, Councilman Wilms, Bruce Waitzel, Elizabeth Stader, Dennis Pearsall,

Nancy Maclearie, Adam Anzzolin, Joseph Tompey, Thomas Martin, Chair Eileen Eilenberger

E. Applications:

1. Application #2021-06 800 Highway #71, block 69 lots 15 & 17, B2 Zone

Preliminary and Final Site Plan, bulk variances & parking variance for rehabilitation of an existing one-story structure to convert to a restaurant with indoor and outdoor dining.

Mark – the applicant has requested that this application be carried to the December 8 virtual meeting, no further notice will be required. The applicant’s attorney waived time requirements under Municipal Land Use Law.

Motion to carry to December 8, 2021: Councilman Chris Wilms

Second: Elizabeth Stader

In Favor: Brian Brendle, Councilman Wilms, Bruce Waitzel, Elizabeth Stader, Dennis Pearsall, Nancy Maclearie, Adam Anzzolin, Joseph Tompey, Thomas Martin, Chair Eileen Eilenberger

2. Application #2021-07 554 Church Street, LLC 554 Church Street, block 59 lots 20, 21 & 31 R5 Zone
Minor Site Plan to create four (4) residential lots

Mark – reviewed the notices and the Board can accept jurisdiction, notice is proper

Mark Aikens, Esq – representing the applicant- stated that initially filed, years back as a five lot subdivision, now 4, all conforming lots, no variances to configure the lots. Requesting minor variances to allow two houses on proposed lots .03 & .04 for a reduced setback by 5 feet.

Sworn In: Michael Cannon, Engineer/Surveyor for applicant

Jason Fichter, Engineer/Planner for applicant

Board Professionals: Lou Lobosco, Board Engineer, Christine Bell, Board Planner

Mark- Our policy has been, if anyone is giving testimony, they need to be on video. Pursuant to DCA advisory opinion regarding virtual meetings, those giving testimony must be on video, even comments from the public. If giving testimony, being sworn in, need to be on video. That policy is consistent with the intent of DCA recommendations.

Michael Cannon, Professional Engineer, Surveyor and Planner in NJ – gives his credentials and is accepted by Board

Cannon- (describes the site) 70,503 square feet, 1.619 acres, bounded south by Church Street, north by Pitney Drive, east by railroad, west by multifamily, currently vacant and wooded and partially cleared with slopes. Served by Municipal water and sewer. Utility easements on site, not all utilities are in an easement. Need easements for some utilities. Three of the lots front on Church Street, one on Pitney
Development plans are conceptual, no development is proposed. Located in the R5 Zone and the proposed lots are twice the size required. Side yard setbacks requested for lots 21.03 and 21.04 where the easements encumber the property, 5 feet is requested where 10 feet is required. Follows RSIS requirements. Ground water recharge will be provided, utility laterals from the streets. Water main to be relocated to the easterly line in 10 foot strip in an easement. Other utilities remain. Sidewalks and curbs will be replaced in like kind.

Dennis – please explain the variances requested and the easements for the utilities.

Cannon-there are easements associated with the utilities that encumber the lots, want to shift for a 5 foot setback.

Dennis-Can you move the house to get the 10 feet?

Cannon- want more buildable area or too narrow of a house, want a 27 – 30 foot width, the other homes are 27 feet wide.

Brian- how close do you get to the easement line, looks like they have the setback.

Cannon- can build to the easement line, not all utilities are in the easement. There is a utility line and an easement line

Aikens- some utility lines are outside the easement?

Brian- they are not depicted on the plans

Eileen- are you moving the water lines?

Cannon- yes, we are moving the water and 15 inch sanitary sewer lines

Brian- why can't you move the house and keep the 10 foot line?

Aikens- planner will answer these questions

Public Questions: Anthony Iarriaccio, 553 Church Street, SLH-concerned with parking
(he has a comment he will state at the end)

Mark- anyone who gives a comment, needs to be on camera pursuant to DCA requirements, can ask questions, but if give testimony or comment, need to be on camera, subject to cross examination.

Sharon Batteau, 1719 Beverly, SLH – asked if just subdividing or is a house being built

Aikens-subdividing to create 4 new lots for this application, will just need building permits

Mark- asking for subdivision approval and two variances this evening.

Aikens- the house plans are not created

Eileen- what is the distance from the easement to the property line

Aikens- Mr. Fichter will answer

Eileen- can you move the water line?

Aikens- the town receives it

Maria Iarriaccio-553 Church Street, SLH-If just a division of land, why need variances if not building houses?

Aikens- Mr. Fichter will answer

Fichter- (gives his credentials and describes the site) The parcel consist of three lots, with 217 feet of frontage on Church Street to the South and 78 feet of frontage on Pitney Drive to the North, multifamily to the west, single families to the southwest, adjacent to Railroad to the East

Located in the R5 single family zone permits 7,500 square foot lots measuring 50 feet by 150 feet. This lot has a unique geometry with the utilities. Taking 3 lots and making 4 lots. Proposed lot 21.01 is 16,444 square feet, with 92 feet on Church St, lot 21.02 has 15,977 square feet, with 75 feet on Church St, lot 21.03 has 20,423 square feet with 50 feet on Church St, and lot 21.04 has 17,658 square feet with 78 feet on Pitney Drive. Fully conforming lots but requesting sideyard variances for eventual homes on lots 21.03 and 21.04 – proposing 5 foot side setbacks where 10 feet is required. Hardship uniquely affects this property due to number of utilities going from Church St to Pitney Dr. Lot 21.03 if gets variance, will have 24 foot wide home, Lot 21.04 would have 27 foot wide home.

The Determination of a Hardship – (discussed and quoted the Davis Case) This application fits the criteria The Positive Criteria is satisfied. These variances can be granted under C2 variance as well, variances provide homes with widths that are more consistent with the neighborhood and without any adverse impacts. Can build up to the easement.

The issue is not the easements, it's the existing sanitary gravity main that goes through the lots.

Homes are as close as can be to the Main and this was discussed in the past with the Borough Engineer – don't want the homes closer to the Main

On lot 21.04- it is not in an easement, needs safe distance. Want variances to have houses with widths that are consistent with the neighborhood.

Appropriate Development-promotes general welfare, providing housing in accordance with the Zoning Ordinance, the sideyard variance is minor. Fully compliant except for the two side variances and these two sideyards are adjacent to the rear yard of the multifamily development. Total lot size for lots 21.03 & 21.04 is 38,081 square feet and could put 5 houses instead of 2, which would be a bigger impact. The project promotes air, light and open space and has appropriate density and preservation of the environment. The Master Plan and Zoning Ordinance has 9.4 dwelling units/acre, proposed is 4, density is below and is an efficient use of the land. Meets the NJ demand and utility utilization. Consistent with the Master Plan, no environmentally regulated areas and promotes desirable visual environment.

The negative criteria- propose single family homes with low density, preserve utility on site. The two sideyard variances requested, are adjacent to the rear yard of the multifamily and has evergreen hedge to buffer – the variances would have a de minimis impact. The Master Plan encourages single family and need for housing for all ages and economic levels. This subdivision achieves those goals. Not substantially detrimental to the public good and does not substantially impair purpose of the Zone Plan. Benefits outweigh the detriments, if any.

Aikens- offer testimony for the gravity, force and water main and relationship of lines

Fichter- There are a few utilities that run from Church St to Pitney – water main, sanitary gravity main, sanitary force main, and overhead wires. The easements can stay in place as is, development was designed around the easements. Only conflict is the water main that is proposed to be relocated. Had discussions with the Borough Engineer and water main is to be relocated to the eastern property line with a 10 foot easement – parallel to the railroad right-of-way.

Working west- is the new water main, then existing overhead wires, then existing sanitary force main, then existing sanitary gravity main and the area after that is the area being developed

Eileen- there is a 30 foot easement in 21.03 and 21.04 only has 20 feet?

Cannon-both have 20 feet

Fichter- gravity main is not entirely in the easement worked with Borough Engineer on that

Eileen- Should there be an easement so the Borough has control? When you move the water main, there will be an easement given to the Borough. What is the distance to the property line?

Fichter-35 feet for easement to the western property line, then subtract the required setback for the building envelope but the sanitary gravity main is not centered in the easement, its on the western side of it and need to provide space away, that's why the house is not proposed up to the easement line.

Lou- Sanitary and water mains are Boroughs but the Borough has to agree to the relocation, up to Borough Water & Sewer Dept and Water Dept to relocate. The easement should be increased, if there is a break, it would be difficult to fix, need a certain safe distance to the main and to the footings of the home.

Aikens- the plan looking at, is a result of an ongoing discussion with Mr. May. No approvals but discussion

Fichter- only the water main is proposed to be relocated

Lou- need to have approval from the Borough

Aikens- issue that there is no easement for the water main

Eileen- is the applicant moving the water main and providing the Borough with the easement?

Fichter- don't know- a discussion item.

Mark- will the water main be lined?

Fichter- it's a new main and don't have to lined

Mark- will the sanitary sewer main be lined?

Fichter-the note on the plan is a remnant of the 5 lot subdivision when the 5 lots were going to tap into the sanitary gravity main going through the property, Mr. May advised if tapping the line anywhere, he would want it lined to reinforce the structural integrity of that pipe, now 4 lots and sanitary sewer connections are made now from Church St and Pitney Dr – no need to tap that main, leaving untouched

Aikens- if tap that main, then will reline it

Lou- spoke to Joe May today and he wants it lined

Mark- concur with Mr. Lobosco, spoke to Mr May and that was his expectations this afternoon, that it be lined.

Fichter -had discussions a few years ago, if tapped, then reline it and if not, will leave it alone

Aikens- this is an engineering issue, not planning issue

Barbara-can we make as a condition of approval, that the sewer main be lined?

Aikens- not sure there is a rational nexus to the lining of the sewer relative to the creation of 4 conforming lots

Lou- can make as a condition, that it is up to the Borough Sanitary Sewer Dept, what they will require

Aikens- I can live with that

Nancy- so Joe knows you are tapping at Pitney and Church and still wants it lined

Fichter- Don't know if he understands there is no tap

Elizabeth- it is indicated on the plans

Fichter- it is a remnant of the old plan that should have been removed

Nancy – so could have a condition that the pipe be lined?

Aikens- no rational nexus for this Board to require lining of the sewer main for 4 conforming lots. Board could condition approval of Sewer Dept.

Nancy- are you still asking for the 5 foot setback?

Aikens- has nothing to do with the sewer

Nancy – in fairness to Joe May, he said today that he wants it lined and you are saying no today at the meeting and that these plans submitted are wrong and it shouldn't be there. So you either agree or not that if Joe wants it lined, it should be lined

Mark- I see Joe is on, maybe we can get clarification from Joe

Sworn In: Joseph May, Spring Lake Heights Borough Engineer

Aikens- not objecting to Joe May – want him on video per DCA

Joe-Borough concerned with condition of the main which is 12 – 14 feet deep and repairing the main proximity to the houses. Want to clarify that the main needs to be lined regardless of the connection, it has to do with repairing Don't recall saying the lining not required if don't tap into it. Request a condition that the main be lined

Aikens – can the main be televised to determine the condition?

Joe- have records of the line. The main is not 100% in some area, repairs will be required. The recommendation will not change

Public Questions:

Sharon Batteau, 1719 Beverly Ave-how can variances be given without houses being shown?

Is there any traffic study?

Fichter-Residential Development-generic size of home, when build then need to comply with Board, showing generic house boxes to show generic size. Will comply in other ways, will comply with Board and other codes.

Sharon- concerned with safety issues and impact of traffic

Fichter- intersection at Church and 71 is a Borough issue, the homes on Church St are fully compliant. Area supports 9 homes, only 3 proposed on Church St, this project is less than what was projected. Traffic study is done on single family homes, not on number of bedrooms

Sharon- concerned that there are no house plans

Aikens- what is your legal authority to say house plans should be shown? Is there a law you can point me to? Or is it just because you say so?

Sharon – I am a tax payer and have a right to ask a question

Aikens- want to object to the question under applicable Borough Code and MLUL of NJ

Mark – think it is a relevant question. Don't disagree with Mr. Aikens that there is no legal authority in Borough Ordinance of MLUL to require a submission of house plans. If approved, they would need to comply with representations that lots are fully conforming or will not get building permits
Aikens- I agree. Want to quantify the cost of relining the sewer main. Can Mr. May give me a ball park number of estimate?

Joe-don't know the current pricing

Fichter- it has been off our radar

Joe-the issue with the sewer is can't repair in a 10 foot easement

Fichter-We discussed, due to constraints, we would provide a 20 foot easement which is customary for this sanitary main and the construction would be within that 20 foot easement

Joe- needs to be lined or will have future issues

Fichter-what was the plan if there was no construction

Joe-Eventually in Capital Plan to put sewer lining, but this is not the worst area

Fichter -reason it is not staying in Capital Plan?

Joe-not if building houses, will be a limit to how to repair. Can't guarantee repaired in lining method.

Fichter- would a 20 foot easement be sufficient to get to the Main?

Joe- this was not formally submitted to me for review, no recommendations to Council, nothing for 3 years. I am sitting in on meeting as a courtesy to answer questions. We can discuss but not at a Planning Board meeting, this application has been idle 2-3 years.

Mark- Mr. May has made his recommendations and continuing to question is argumentative. You heard his testimony and recommendations

Public Questions:

Anthony Iarricio, 553 Church Street- what is a conforming house?

Fichter-ordinance outlines what can be built – setbacks, height, building coverage, all 4 homes are fully compliant except for two side yard variances

Anthony- offstreet parking sufficient?

Fichter-have garage and driveway proposed, compliant with offstreet parking

Anthony-said no hardship, but neighbors think not enough street parking, will there be enough street parking?

Fichter- that is issue with governing body, no on street parking requirement

Anthony- so there are plans for homes? Heard several times that there aren't plans, now saying there is

Fichter-showing a footprint of homes, if architect submits plans to build, need to provide offstreet parking, may not have a garage.

Barbara-has an application been made to NJ Transit for work adjacent to the right of way for either approval or a letter of no interest?

Fichter-no application has been made, work proposed is a water main, 4 feet deep, no impact to NJ Transit

Barbara- can we make that a condition if they believe no impact, they will provide a letter of no interest

Mark – we can do that

Barbara- can we also make a condition of approval, that South Monmouth Sewer Authority gives approval?

Mark- if approved, they will need to get required outside agency approvals

Aikens-if those agencies have jurisdiction. NJ Transit was noticed and did not respond

Barbara- that is not an application

Mark- if work is done adjacent to the property, letter of no interest will be required.

Aikens- if its required, we will get it. We are talking about several conditions. Would like a 10 minute break to talk to my clients.

Eileen- These are the 3 conditions I have written:

- Provide easement for sewer main line
- Who is paying to move the water line and give easement to the Borough
- Relining the sewer main

Break: 8:35 PM

Resume meeting: 8:50 Roll Call

Board Members Present: Brian Brendle, Councilman Wilms, Bruce Waitzel, Elizabeth Stader, Dennis Pearsall, Nancy Maclearie, Adam Anzzolin, Joseph Tompey, Thomas Martin, Chair Eileen Eilenberger

Aikens- requesting the Borough share the televised line to the applicant's engineer. Considered the 3 requested conditions – don't know the costs – want to quantify and review the line, so request to carry this application with no further notice. Will meet with Mr. May to discuss options.

Mark- Believe going to need to have to get something from NJ Transit and the South Monmouth Sewer Authority, either approval or letter of no interest. It will be a condition of approval

Aikens – will investigate that and see what jurisdictional thresholds there are

Barbara- Would you want to send a letter to Council for approval for the relocation of the water line?

Aikens- will contact Borough Attorney in the morning.

Motion to carry to December 8 with no further notice: Councilman Wilms

Second: Brian Brendle

In Favor: Brian Brendle, Councilman Wilms, Bruce Waitzel, Elizabeth Stader, Dennis Pearsall, Nancy Maclearie, Adam Anzzolin, Joseph Tompey, Thomas Martin, Chair Eileen Eilenberger

Opposed: none

F. Resolutions: None

G. Correspondence: None

Motion to adjourn: Councilman Wilms

Second: Brian Brendle

All Members in favor to adjourn

Meeting adjourns: 8:57 PM