

**BOROUGH OF SPRING LAKE HEIGHTS PLANNING BOARD**

**Minutes**

**December 8, 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, Dennis Pearsall, Mayor Campion, Joseph Tompey, Thomas Martin, Councilman Wilms, Adam Anzzolin, Bruce Waitzel,

Board Members Absent: Roy Francolino, Nancy Maclearie, Brian Brendle, Elizabeth Stader,

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

**C. Approval of Minutes:** November 17, 2021 Motion: Eileen Eilenberger Second: Thomas Martin  
In Favor: Dennis Pearsall, Joseph Tompey, Mayor Campion, Thomas Martin, Chair Eileen Eilenberger, Adam Anzzolin,

**D. Resolutions:**

1. Application #2021-13 Keith & Danielle Heuer, 603 Essex Ave, block 72 lot 26

Motion to approve: Joseph Tompey Second: Tom Martin

In Favor: Mayor Campion, Dennis Pearsall, Joseph Tompey, Tom Martin, Chair Eilenberger

2. Application #2021-12 Benjamin Sisti & Erin Smith, 911 Greenwood Drive, block 84 lot 71

Motion to approve: Joseph Tompey Second: Chair Eileen Eilenberger

In Favor: Adam Anzzolin, Dennis Pearsall, Joseph Tompey, Tom Martin, Chair Eilenberger

**E. Applications:**

**1. Application #2021-15**

**Spring Lake Apartments, LLC**

**711 Wall Road, block 46 lot 20, R5 Zone**

Certificate of prior non-conforming use for a basement apartment in an existing multifamily structure

Michael Vitiello, Esq – for the applicant

Mark- Board hasn't seen this kind of application before. The applicant is seeking a Certificate of Non-conformity. Applicant is required to go before the Board because they presently have a non-conforming use. The applicant's use predates the ordinance and will be providing proof of use. The Zoning Officer cannot issue. Board is not approving a Certificate of Occupancy, it is for a Certificate of Non-conforming use.

Vitiello- Charles Puth, is the owner of the LLC and Christine Malita is the Property Manager. We will be providing exhibits. This aspect of the property existed prior to the ordinance in 1987.

Mark – swears in Lou Lobosco, Jennifer Beahm, Charles Puth and Christine Malita

Vitiello- Spring Lake Apartments, LLC was previously the Franklin Court Apartments, previously one apartment in ground floor. Had a tenant in that apartment since 2005, moved out. The new tenant went to get a CO and the Zoning Officer said ground floor unit is below grade and ordinance says it is not permitted. Confirm that unit has been in building in since before 1987. If approved, can continue with CO process, have drawings where the unit is located – will share the screen.

Aerial photo shown on Wall Road near Route 71, footprint shown with sidewalks in front and side

1963 photo – red circle – unit not there

1970 photo – building appeared – historical photos

Same footprint from 1970 to today. Architectural Plans for this building dated 1963, prepared by Jerome Morley. 7 sheets – the second page shows the basement and foundation plan (each page of plan is discussed in detail)

1963 drawing shows the unit in the basement and the 1998 survey shows the same layout of the building There is just under four feet from floor to the dirt outside the window. Ordinance says nothing below two feet below grade.

Puth – bought the building in 1997 and it had 14 units, 13 plus the one ground level. There is little turnover. The tenant moved in about 2004, before that a woman was there since 1964. It has been 4 months since it was rented

Vitiello- tax records show it is taxed as 14 units.

Eileen- is the bottom of the window on the outside, level with the ground?

Vitiello- is about 2 or 3 inches

Eileen- are there egress windows?

Vitiello – There are windows in the living room and in the one bedroom and they will comply with building requirements

Dennis – how many stairs to go down?

Vitiello – 4 stairs

Puth- there is a pumping system for areas that is wet, there is a French drain to a sump pump.

Public Questions – NONE

Adam- asked if there was storage in the basement that is not part of the apartment and access for the rest of the tenants

Jenn- this is not a new development, they are here to certify the use

Eileen- The Board's position is to approve or deny the certificate for the apartment

Mark- the testimony and exhibits needs to show it is a continuous use since 1987. The building was constructed in 1964.

Public Comments – NONE

Motion – Tom Martin – to approve – to allow to continue use

Second – Dennis Pearsall – the applicant showed that the use existed before 1987 and should be granted approval to continue the use of the apartment

In Favor- Dennis Pearsall, Mayor Campion, Joseph Tompey, Tom Martin, Chair Eileen Eilenberger

Opposed – None

Application Approved for Certificate of prior non-conforming use for a basement apartment

## 2. Application #2021-07 (CARRIED FROM MEETING OF OCTOBER 13,2021)

554 Church Street, LLC

554 Church Street, block 59 lots 20, 21 & 31, R5 Zone

Minor Subdivision Plan to create four (4) residential lots

Mark Aikens, Esq. – attorney for applicant – there were some questions regarding the relining

Michael Cannon, Engineer for the applicant

Kitrick – follow up to relining- spoke to Mark Aikens and Dennis Collins

1. The first issue is the sewer being lined – re-lining or replacement. Determined that the applicant is not required to reline and is outside the jurisdiction of the Board and will be removed from the plans
2. There are two matters relating to the easements – 30 foot wide sewer easement occupied a portion of the area

Easement is 10 feet from the eastern property line and is 30 feet wide – Pitney to Church Street

There was a discussion between the Borough Attorney and Mr. Atkins – the applicant will secure the easement with the Borough. This is not the purview of the Board. It is agreed upon between the applicant and the Borough

Aikens – I agree

Kitrick- there is a 20 foot utility easement provided to the Borough – north to south – Pitney to Church St. Applicant will execute the utility easement, do you agree?

Aikens – agree with the representation

Kitrick – items will be reviewed with the Borough Attorney

Eileen – are there any outstanding items on the Engineer's report

Lou- project does not meet the Storm Water Management. The dry wells were addressed. The total suspended solids were not addressed, will need to meet requirements.

Aikens – no improvements are proposed

Jenn- houses and garages are shown on the plans

Cannon- conceptual drawings

Jenn- collectively meets major development criteria, this has been the letter since July

Cannon- have oversized lots, plenty of room, can put berm to prevent runoff

Lou- we don't have any information on that

Aikens – can this be done by resolution compliance?

Lou- yes

Kitrick-if matter is approved, conditions of the Storm Water Management plan can be reviewed by the Borough Engineer for approval

Lou- each lot will have Storm Water Management

Jen- if it's a condition of this Resolution, can't perfect the subdivision deed

Lou- can meet Storm Water Management on this site

Eileen – applicant is asking for variances for five feet for 2 lots – 21.03 and 21.04 and conditions for easements and the Storm Water Management Plan

Aikens – representation not a condition

Kitrick- Storm Water is a condition and approval of any outside agencies

Adam – any updated graphics, what is presented in the easements?

Aikens- no, worked out with the Borough Engineer and Borough Attorney

Eileen – the remaining item is the "sewer to be lined" issue, so we have the correct documents

Dennis – this is a self created hardship

Aikens – Mr. Fichter provided testimony to the hardship criteria regarding a C-2 variance

Tom- don't recall, would like it to be read back to us

Aikens- that part of the testimony concluded

Kitrick – Board carried this application, want direction on the recall issue

Aikens- given proximity to the easements, testified that it was not substantial detriment. The five foot setback is imperceptible from the street.

Kitrick – if variance not requested, is there an alternate plan?

Aikens – lot is not as desirable with the narrowed living space

Dennis- can't be seen from the street? Does it meet the criteria?

Kitrick – imperceptible from the street

Jenn- What Zoning does this advance?

Aikens – provides better light and layout

Tom- did you contact New Jersey Transit?

Aikens- New Jersey Transit does not have jurisdiction

Kitrick – They do not play a role. Applicants are required in the Resolutions to contact outside agencies.

#### Public Questions:

Sharon Batteau- are the homes being sold on Zillo?

Aikens – No

Sharon Batteau- was a Traffic Impact Study done?

Aikens- No, not required under the Borough Ordinance – creating four conforming lots

Tom- four lots are not worth doing a Traffic Study

Robert Makatura – why are you asking for variances?

Kitrick – That is the reason for the Board, to seek relief – it is the purpose of a Land Use Board

Mayor- we are proposing less than half as proposed in the ordinance

Jenn- the argument is based on math. Size of lot can have 9 homes. Based on the unusual shape of the lot, with irregular sizes, - did not see plan for 9 homes. Five homes were proposed with one as a flag lot and three along the railroad. Townhouses are not permitted and would require variances.

Eileen – Townhouses were proposed years ago.

Mayor Campion- that was a prior application

Jenn- believe testimony is substantial enough to justify variances

Tom- agree with Jenn

Jenn- This is a Flexible C – C-2 Variance

Dennis – plans shows houses but in testimony they say no houses planned

Aikens – plans show footprint of houses and driveways per the Board Professionals

Dennis- houses can be changes to a smaller house by the builder. The houses are not planned yet

Aikens- want to keep the houses away from the easements

Dennis – it is not a standard width of a house

Jen- intention of variances affords builder a wider home to push as far off the railroad as possible

Dennis – not satisfied with the five foot set back

#### Public Comment:

Kitrick- remind the public that if you give testimony, you must be on camera

Anthony Arichio, 553 Church Street – support putting homes there, from neighbor's perspective, it's a good thing

Board Comments:

Eileen – conditions were discussed prior. Applicant requesting two lots with a C-variance for setbacks

Aikens – request that the Board vote on subdivision and variances separately

Kitrick – bifurcated vote for fully conforming subdivision

Motion to approve Subdivision to create 4 lots: Tom Martin            Second: Bruce Waitzel

In favor: Chair Eileen Eilenberger, Dennis Pearsall, Mayor Campion, Joseph Tompey, Thomas Martin,  
Councilman Wilms, Adam Anzzolin, Bruce Waitzel

Opposed: None

Motion to approve two lots for C-2 with 5 foot western property line setbacks: Tom Martin

Second: Bruce Waitzel

In Favor: Chair Eileen Eilenberger, Dennis Pearsall, Mayor Campion, Joseph Tompey, Thomas Martin,  
Councilman Wilms, Adam Anzzolin, Bruce Waitzel

Opposed: None

Executive Session: 8:24 PM

Kitrick – read Resolution for Executive Session

Motion to go into Executive Session: Councilman Wilms    Second: Chair Eilenberger

All members vote in favor

Public portion of meeting locked

Resume meeting: 8:35 pm

Attendance taken

Motion to adjourn: Tom Martin

Second: Councilman Chris Wilms

All Members in favor to adjourn

**Meeting adjourns: 8:36 PM**