

Regular meeting of the Haworth Planning Board on November 20, 2013, at the Municipal Center.

PRESENT: Thomas Ference, Chairman
Andrew Rosenberg, Councilman
Andrew Anderson
Alan Grossberg
Leona Kosmac
Joan Landesman
Bruce Steinthal
Bernard Troy

Mark Madaio, Board Attorney
David Hals, Board Engineer

ABSENT: John DeRienzo, Mayor
Edmond Ezra, Public Official
Mark Lichtblau

Dr. Ference called the meeting to order and upon roll call, the above members were present. Ms. Kosmac arrived a short time later.

Mayor DeRienzo and Mr. Lichtblau were not able to attend because of other commitments.

ACCEPTANCE OF THE MINUTES

The minutes of the September 2013 were reviewed.

Mr. Troy moved to accept the minutes as presented, subject to the rights of absent members for statements directly attributed to them.

CORRESPONDENCE

- Documents relating to an application for State aid for the Downtown Project.

Mr. Ference advised that there wasn't any other correspondence other than what pertained to the case which was before the Board this evening.

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APPLICATION FOR GREENER HOME DEVELOPERS

Mr. Ference stated that since the Board had already reviewed the documents, the application would be heard this evening and the matter relating to the ordinance would be dealt with at the December meeting.

Manuel Arroyo, with an office located in Hackensack, New Jersey, appeared on behalf of Greener Home Developers.

Mr. Madaio stated that the notices were in order and the application could proceed.

In essence, Mr. Arroyo stated the following. He said that Greener Home Developers were the Fee Owners of the property located at 209 Schraalenburgh Road. He said that many of the Board members were familiar with that property because there had been prior applications. Mr. Arroyo said that the improvements to the property would be materially substantial.

Mr. Arroyo stated that they were proposing a single family home with a 3400 sq. ft. livable area and it was proffered by a Fee Owner and not a contract purchaser. He explained that the property sits on top of a crest which descends on both sides eastward across the property. Mr. Arroyo said that the home on the property had been the scene of a horrible fire in 2005. The property was rendered unsafe so the structure and foundation were demolished and removed.

Mr. Arroyo said that they were dealing with topography and there were contours which were the after effect of the demolition and not the natural topography of the land. In addition, both before and afterwards, as a result of storms, some trees on the property fell and everything was chipped into debris, which altered the contours of the land.

Mr. Arroyo stated that on one hand, they would need a waiver according to the Steep Slope Ordinance; or, on the other, under the Municipal Land Use Ordinance, they would need a C1 or C2 variance. He said that they would provide supporting proofs and the notices for both had been delivered.

Mr. Troy asked if the applicant proposed to build a house according to the specifications provided.

Mr. Arroyo responded that since the applicant had a growing family, he wasn't sure and did not have a response.

Mr. Arroyo stated that they were seeking a variance or waiver and the application met all other requirements including light, air, and open space. He said that it would be a welcome addition and would fit into the neighborhood.

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Mr. Arroyo then presented Pierro Galucci as an architect and expert witness. He gave his license number, and went over his background and experience.

Mr. Madaio suggested that Mr. Galucci be deemed an expert witness. He was sworn in.

In essence, Mr. Galucci testified to the following. He said that he designed the house and prepared the Plans for the applicant. He referred to Sites 1 and 2 and A1 on the Plans. Mr. Galucci said they tried to get the house and garage as far north as possible because of the slope. Also, they would fix the contours in the back and they wished to create a rising landscape in that area.

Mr. Ference asked about their engineer and Mr. Arroyo stated that he was not available.

Mr. Ference pointed out that they talked about the neighborhood and he asked if they had a Key Map - and if so, why didn't the Board have a copy.

Mr. Galucci said that it had not been requested.

Mr. Ference also pointed out that they referred to a design criteria -- he said it would be good to see it.

There was discussion about the house being offset and they also discussed the steep-slope area.

Mr. Galucci said that from a planning standpoint, by having the house offset, they would get a larger side area rather than two similar side yards.

Mr. Arroyo said that he could represent to the Board and provide certification of service and whether proper notices were provided.

Mr. Ference stated that he was thinking of the reference made to the property and neighborhood and he wanted to understand all the information about the property and that of the neighborhood.

Mr. Madaio marked the following Exhibits into evidence:

- A-1 - Site Plan 1
- A-2 - Site Plan 1 - the colorized version

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- A-3 - Site Plan 2
- A-4 - Floor plans and elevations - the ones given to the Board
- A-5 - Floor plans and elevations - the ones that the expert witnesses used
- A-6 - Hand-out given to the Board including the topography survey with an overlay of the footprint of the prior house.

Mr. Galucci explained what the colors on the plans represented and where the steep slope was located, the main direction of the slope and storm run-off, the water collection area and curb cuts,. He described the design and structure of the house. Mr. Galucci said that any water collected on the land would be absorbed before it spilled onto the neighbors' property.

Mr. Anderson asked about drainage and pavement coverage.

Mr. Galucci responded saying that any water collected would go into the tank. He said they were thinking of using impervious pavers for the driveway so that they could collect 50% of the water runoff.

Mr. Arroyo suggested putting in a third collection basin. He said that Greener Home Developers said that they would build the house taking all environmental concerns into consideration. He elaborated.

Mr. Arroyo stated that the proposed home would be consistent with the streetscape along Schraalenburgh Road.

Mr. Ference noted that the attorney was not really the right person to provide this information.

There was discussion.

Mr. Galucci stated that he had walked the back of the property and noticed a lot of wood chips and natural materials.

Mr. Hals asked if this was the only steep slope on the property.

Mr. Galucci responded that they were only concerned with the slopes behind the house. He said there might be other steep slopes but that was all the information they had.

There was discussion about the location of the steep slope to which they referred.

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Mr. Hals said that the drainage plan had to be completed and he was not overly comfortable with their idea for a larger collection area because it would eventually pond up and go onto the neighbors' property.

Mr. Ference said that he wanted a full drainage analysis available to the Board's engineer and it should be submitted prior to the next meeting for review.

Mr. Arroyo said they would comply. He said that their engineer was in the process of reviewing the requirements of the municipality.

Mr. Ference responded that he had expected it to be in the Board's hands by this meeting.

Mr. Anderson asked that Mr. Kraus prepare a memo delineating all steep slopes.

Mr. Hals agreed.

Mr. Ference noted for the record that the applicant must provide a full survey. Further, Mr. Ference noted that with regard to the wood chips, it had been approximately eight years since the demolition of the house. He asked to what degree these wood chips would become part of the property or would they be removed.

Mr. Galucci responded that a lot of the property was affected by the storms and they were the cause for some of the chips.

Mr. Ference noted that they said the property had elevations which were not natural. He asked if they were going to clean up or would the elevation of the debris be included.

Mr. Galucci said that they had to remove a lot of the debris.

Mr. Ference stated that he wanted them to tell the Board where the real property was located and not measure it with the rubbish. He asked if any of the rubbish was ash or mulch.

Mr. Arroyo said that they could penetrate surface to measure it.

Mr. Steinthal said that some parts of the slope would change and the Board needed to know what the applicant was going to do.

Mr. Ference pointed out that anything they did would change the drainage.

Mr. Arroyo said that they didn't know if the topography would change from where it now existed.

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Mr. Ference stated that it was germane to Mr. Hals' statement and it was a practical concern because the topography and drainage would change.

Mr. Arroyo referred to Exhibit A-6 saying that it was the topography survey as it was at that time. He said the Board could see it was possible to construct a house from what was submitted simply by looking at A-6. Mr. Arroyo said he wanted to magnify a point that the application only focused on the area of development and improvement.

Mr. Ference pointed out that once they did the improvements, it would affect the runoff and the Board wanted to know about it.

Mr. Ference asked about a corner note on the Plan which talked about removing a concrete curb. He also asked about the height of the fence shown on the Plan.

Mr. Galucci said that the note referred to a remnant - a mason wall running horizontally on the subject property. He said he thought the fence belonged to the neighbor but they didn't want to go onto the neighbor's property to investigate.

Mr. Anderson pointed out that it was a retaining wall which was there because of the soil.

Mr. Ference noted that the applicant wished to remove two significant trees and one small tree. He asked why they wanted to do that. Mr. Ference reminded them that the trees absorb water. He again asked why they were planning on removed two major trees.

Mr. Galucci said it was necessary in order for them to fix the topography.

Mr. Anderson stated that they needed to take soil erosion control into account.

There was discussion.

Mr. Galucci stated that everything green would be the lawn and landscaping.

Mr. Ference asked that in the time since the fire, was the foundation from the old house removed or buried.

Mr. Galucci responded that he did not know.

Mr. Hals said that it should not remain on the property.

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Mr. Ference said that there were environmental issues attached to burying the foundation and it should be removed.

Mr. Caulker of Caulker & Caulker, was presented as a planner and expert witness.

Mr. Madaio questioned him and then suggested that Mr. Caulker was qualified as an expert.

The Board accepted him as an expert and Mr. Caulker was sworn in.

In essence, Mr. Caulker testified to the following. He went over the scope and focus on the historical background of the slope. He said he did a survey on the nature of the area shown and he calculated the slope to be at the rear of the side to certain points and it did not exceed 15%. He said the wood chips depository was a temporary measure and a product of the storm which occurred in 2011. Mr. Caulker said there were 18 to 24 tree stumps still on the site. Mr. Caulker said he walked through and found there were slopes in the rear.

Mr. Madaio marked the photos of the slope area as Exhibit A-7.

Mr. Madaio asked Mr. Caulker if it was his testimony and if he would demonstrate that what seemed to be steep slopes was in fact stacked wood chip piles by the way they were stacked.

Mr. Ference stated that what Mr. Madaio just asked Mr. Caulker, was the point of his question.

The photos were reviewed.

Mr. Steinthal asked if the two tree stumps in the first photo were the same as the second photo and Mr. Caulker responded that they were.

Mr. Anderson noted that the Board didn't have information on the true depth of the land.

Mr. Troy asked if the debris would be removed depending on the depth. He said there was no evidence of the residual foundation on the site but he did not know what was on the graded area. Mr. Troy said that photo #4 showed the natural wood chips but they did not seem to be aged.

Mr. Anderson asked for an elaboration on why they looked new.

Mr. Caulker said that they deteriorated in their original color.

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Mr. Troy asked what effect would result from the removal of the wood chips.

Mr. Caulker said that it would be *di minimis*.

Mr. Madaio said that they were talking about wood chips and soil but the Board also had to consider the foundation of the old house. He said that no matter what, it had to be removed.

Mr. Caulker responded that it was the steep slope that needed to be dealt with.

Mr. Ference stated that they needed to know what was there.

There was discussion.

Mr. Caulker said that the Board should read the Ordinance.

Mr. Anderson stated that he did not interpret that they only had to consider the footprint of the house, but the entire site.

There was discussion about the applicant contouring the entire site and the fact that it should all be addressed.

Mr. Caulker said that when the Board looked at the re-contouring design, they would see that it would be similar to the original house.

Mr. Anderson responded that the Board did not know if that would happen and they needed to look at all of the information.

Mr. Ference said they had to know about the modified area as opposed to the disturbed area. He said that the re-contoured area might be something totally different. Mr. Ference said they needed to know what would be disturbed or permanently altered because all of the information needed to be precise. Mr. Ference said they needed to get a Plan with specificity.

Mr. Caulker said that in photo #5, there were five large tree stumps and it was his thought that they would probably be taken out.

Mr. Madaio said he passes that site several times a day and he thought they sold off a lot of the cut trees.

Mr. Ference felt that the applicant should not be allowed to build the house on that property at this time.

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Mr. Caulker cited Cox, p. 390, 15-8(b) for the basis of considering a waiver as an exception from the Site Plan Ordinance. Mr. Caulker then read the Borough Ordinance.

There was discussion with Mr. Madaio about the different requirements for a steep-slope waiver and variance and also about the location of the proposed house.

Mr. Anderson told Mr. Caulker that he misquoted the Ordinance.

Mr. Arroyo read the Ordinance and referred to the Plan.

Mr. Anderson noted that with the way they were designing the land in that particular area, a structure could not be located on it.

Mr. Hals reminded everyone that they not only had to consider the matter of the steep slope area but also the fact that there were homes with wetlands nearby.

Mr. Ference said that when there are any environmentally sensitive pieces of land, the matter has to come before the Board.

Mr. Hals explained that there are wetlands especially near the reservoir and the Board has to consider whether there would be any impact.

Mr. Anderson said that if they carried this parallel forward, where would they be. He elaborated.

Mr. Hals stated that the applicant wished to construct a structure and would be disturbing slopes and the Board needed to be concerned with the entire property. He said he felt there were more steep slopes on the property in addition to what was shown on the Plans.

There was discussion about Section 26-502C1.

Mr. Hals said that they were not taking the other section of the Ordinance into consideration.

There was discussion about the steep slope and what would be altered and disturbed.

Mr. Caulker asked if that triggered a variance or jurisdiction.

Mr. Madaio responded that the Ordinance was not the clearest so he felt there was a significant chance for a waiver.

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Mr. Ference said the applicant wanted to build a structure but first, the Board wanted to know what would be left when they were finished building. He said the Board wanted all of this calculated and Mr. Hals to weigh in on it. Mr. Ference said they needed more specificity with drainage, etc., and they also needed to tie up all the details.

Mr. Ference stated that as a matter of procedure, he asked that the attorney read the appropriate ordinances before the Board acted on the matter.

Mr. Caulker said that if the Board were to take the position, he would respectfully proffer a C2 variance which would enable construction. He said that with regard to the streetscape, he has looked at homes on the east side of the subject property and they were somewhat larger. He felt that the proposed structure would fit in.

Mr. Arroyo asked the planner if the location of the site also advanced the purpose of the Municipal Land Use Law as to light, air, and open space.

Mr. Caulker said it did and there was no other deviation elaborated.

Mr. Arroyo said he wanted to have a clear record that it was the planner's opinion that the existing demography which altered the topography of the land was caused by the piling of wood chips. He also asked Mr. Caulker if he would say it was a unique topography feature.

Mr. Caulker said it was very much unique not only from a point of view that it was man made, but also because it was temporary in nature.

Mr. Arroyo asked Mr. Caulker if the benefits outweighed any detriments.

Mr. Caulker stated that he did not see any detriments because the proposal is in conformance and it is consistent with the Zoning Ordinance and Master Plan.

Mr. Arroyo asked if the all the benefits outweighed the detriments and Mr. Caulker responded that they did.

Mr. Arroyo stated that he had no other witnesses. He said the applicant has employed Bruce Rigg as the surveyor. Mr. Arroyo said they would appreciate coming back and bringing Mr. Rigg back so he could testify for a waiver or C variance.

Mr. Ference opened the meeting to the public.

Gregory Anton, of 197 Schraalenburgh Road, was sworn in and in essence stated the following. He said that he lived in the home to the south adjacent to the subject property. Mr. Anton said that many of his concerns had already been discussed.

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He said they noticed many more trees being taken from the property and it was creating a whole new existence of water flow and erosion. Mr. Anton said the natural drainage of the property is to the southeast so if there was a drainage area, it would go towards the wall and that would be a concern to him.

Mr. Anton said they noticed that there used to be a number of trees and shrubs which had been chopped down. He said they were wondering if the owner intended replacing any trees which were there before.

Mr. Ference said that if any adjacent neighbors had concerns about changes to any historical experience of the property, the Board probably would not approve these changes. He said Mr. Rigg would have to provide drainage information. He told Mr. Anton that there was a seepage pit plan in place.

Mr. Hals said that there would be additional drainage areas from the proposed house and driveway so there would be a reduction of runoff.

Mr. Ference explained that a bond would be posted and if there was a problem in the design, it would have to be remedied before the bond could be returned. He said that the question of landscaping is outside the jurisdiction of the Board.

There was discussion on what was removed.

Mr. Ference said he felt it was good practice to discuss concerns and neighbors have a right to know.

Mr. Alton said he had some requests for the property.

Mr. Ference explained that the Board always has the right to push an issue but it has to first decide whether it has merit.

Mr. Madaio asked Mr. Arroyo to agree to extend time.

Mr. Arroyo agreed to extend time and asked that the matter be put on the agenda for the next meeting.

Mr. Ference stated that the next meeting would be held on Wednesday, December 18th and the application would be heard for approximately 1 to 1 ½ hours.

Mr. Arroyo asked about re-noticing.

