

Special meeting of the Haworth Planning Board on May 2, 2019, at the Municipal Center.

PRESENT Bernard Troy, Chairman
Thomas Ference, Mayor
Andrew Rosenberg, Council Liaison
Andrew Anderson, Vice Chairman
Amy Albalah
Leona Kosmac, Secretary/Treasurer
Nancy Minikes
Dennis Posen

John D'Anton, Board Attorney
Caroline Reiter, Board Planner

ABSENT: Edmond Ezra, Public Official
Tae Chang, Alternate
Mark Kronfeld, Alternate
Joseph Vince, Board Engineer

Mr. Troy called the meeting to order and upon roll call, the above members were present.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

In essence, the following transpired.

ACCEPTANCE OF THE MINUTES

The minutes of the April 2019 meeting were reviewed.

Mr. Troy asked that references to "Fair Share Housing" be amended to say, "Fair Share Housing Corporation."

Mr. Posen said that he did not remember making the comments shown on pages 15 and 17.

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Mr. Posen moved to accept the minutes as amended, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Councilman Rosenberg and upon voice vote was unanimously carried.

CORRESPONDENCE

- Memo from Mrs. Reiter with proposed revisions to be discussed at the next meeting.
- Information relating to the Storm Water Management Course, which every Board Member is required to take.
- Letter dated April 30, 2019, from Mr. Archer, who is representing Suez Water New Jersey, relating to building a warehouse storage facility on their property in Haworth.

Mayor Ference arrived.

Mr. D'Anton suggested that a letter be written to them saying that the Board would need a conceptual review. He said that given the calendar of events, the Board would have approximately 15 minutes at the May 15th meeting to discuss this matter. He pointed out that Mrs. Reiter would be in attendance and able to give her input.

Mr. D'Anton explained that they will have until July 2019 so this case could be heard in June. He said that if the Board gave them the "go-ahead" in May, they would be able to file their application in time.

- Copy of an email message from Mrs. Reiter with her available dates in June since she would not be able to attend the June 19th meeting.

Mrs. Fay will be asked to forward the email message to all members of the Board.

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342 WHITMAN, LLC. APPLICATION (continuation)

Matthew Capizzi, with offices in Tenafly, New Jersey, appeared on behalf of the applicant. He stated that they had a Subdivision Application before the Board and he reviewed what had been covered at their last meeting.

Mr. Anton noted for the record that this was a Special Meeting of the Planning Board. He said that proof of publication and 200 ft. notifications were submitted and found to be adequate. He advised the Board that they had jurisdiction to hear this case.

Mr. Capizzi explained that this was a two-lot subdivision of approximately 25,000 sq. ft., fronting on 3 streets. The lot would be subdivided in half with one lot on Whitman Street and one on Prospect Avenue, with both driveways on Prospect Avenue. He noted that there were no bulk variances needed.

Mr. Capizzi said that one house would have only 16% coverage, which was smaller than allowed; the pavement coverage would be 9% and 15% was allowed; and the impervious coverage would be at 25% and 40% was allowed.

Mr. D'Anton asked if it would be fair to say that the applicant was agreeable to the bulk measurements set forth on the documents; and Mr. Capizzi agreed.

Mr. D'Anton marked Mrs. Reiter's document dated 4/15/19 into evidence as Exhibit B-2. He then marked the Application as Exhibit A-5.

There was discussion about the approval of the Site Plan and when the Subdivision could be granted. Mr. D'Anton stated that there would be no need for the applicant to come back again. He also explained that the recorded Deed would be attached to the Resolution; and, on the record the applicant states they would agree to it. He elaborated.

Mr. Dattoli, with offices in Montvale, New Jersey, was presented as an expert architect and sworn in. He went over his education, background, experience, and licenses in New York and New Jersey.

Mr. D'Anton advised that Board that they could accept this witness as an expert architect.

Mr. Dattoli described the property and the proposed lots. His Drawing dated May 1, 2019, with the Whitman Street house was marked as Exhibit A-6. He described the two-story interior of the house, the two-car garage, and the Whitman Street entry.

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There was a question about whether this was a drawing of the house to be built and Mr. Capizzi explained that it could be smaller and this drawing was presented just to show that it would be in consistency of the neighborhood.

The architect said that the subject property was in a mixed neighborhood and he proceeded to describe it. Mr. Dattoli said that the house would fit in with the scale and size, and it would be a variation of the houses in the area.

Upon questioning about possible plans for a deck or patio, Mr. Dattoli stated that there would be a landing and proposed patio but not a deck. He said that the impervious coverage and pavement coverage would comply.

Mr. Dattoli then presented his Drawing with the Pleasant Street property, dated May 1, 2019, and it was marked as Exhibit A-7. He said that the Prospect Avenue house would be located on this lot, it would be similar to the other house but with a different architectural style and a side-entry garage. He pointed out that they would look completely like two-different houses.

Mr. Troy opened the meeting to the public for questions.

Laura Bayer, of 341 Whitman Street, asked what would happen in the future if there were requests for other variances.

Mr. Troy explained that the applicant had stipulated that there would be no additional variances and the building would not exceed what they had presented.

Mr. D'Anton said that they would have to file an application to get a deck or patio.

Mr. Capizzi stated that they had a 25,000 sq. ft. lot and the foot print of each house would be only 6,000 sq. ft.

There was discussion about having 1 or 2 houses on the lot and also about the set back requirements.

Mr. Capizzi stated that this Subdivision allowed for no greater than 3,600 sq. ft.

Steve Lydon, of 25 Westwood Avenue, Westwood, New Jersey, was presented as an expert planner. He was accepted at the last meeting and he was there to continue his testimony.

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Mr. Lydon talked about how he chose the criteria for the two lots. He said he looked at 33 lots and the applicant's was the only vacant lot in the study area. Mr. Lydon said that as far as the negative criteria, he wanted to testify that the impact in the neighborhood would be minimal, that most of the houses in this particular area were approximately the same size, and there would be consistency. He pointed out that it was a disturbed lot and was out of character. Mr. Lydon stated that the Application should be approved.

Mr. Lydon went over the sizes of the lots and dwellings in this neighborhood and explained that if their lot was not subdivided, a house could be 12,000 sq. ft. and there was no dwelling in the area which approximated that size. He stated that this was the only corner lot on three different streets and subdividing them would increase compatibility. Mr. Lydon then referred to Exhibit A-1.

Mr. Lydon explained that people in homes with school-aged children usually make 10 trips per day so there could be approximately 20 trips, and this was consistent with the Planning document. He said there was negative criteria when land was overcrowded but the subdivision would give a sense of separation. Mr. Lydon stated that they meet the bulk and coverage requirements and there would be no impact. He reviewed what the proposed coverage would be and what was allowed and it showed that it was less than the Ordinance required. Mr. Lydon said that there would be no impact on the Master Plan since the lots would be consistent.

Upon direction from Mr. D'Anton, Mr. Lydon addressed Mrs. Bayer's question. He said the houses would be slightly larger than some of the houses in the area; however, there were dwellings which had been refurbished and enlarged and the proposed houses were very much in keeping with those dwellings. Mr. Lydon said there were two dwellings of approximately 4,400 sq. ft and 2,200 sq. ft., which were significantly larger, and approximately one-third of the dwellings were comparable. There were approximately 85% of the dwellings, which were consistent with the setbacks.

There was discussion about some homes in the area which were significantly larger.

Mr. Troy reminded Mr. Lydon that at the last meeting, Mr. D'Anton asked him to come up with the sizes of other houses in the area.

Mr. Lydon stated that there was no disrespect for the Board but he felt it was as it should be and the houses would be consistent with those in the area. He said he did not have the time to look at them and he did not change his conclusions.

Mr. Troy opened the meeting to the public for questions.

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Mrs. Bayer asked about the time of day the traffic pattern from Schraalenburgh Road was done and if there had been any concerns because of the children from Northern Valley Regional High School. Mr. Lydon reviewed the document from 2008 and said that there had not been any traffic studies done on Prospect Avenue.

Mr. Capizzi stated that their application had been on file and no letters were received from the Police or Fire Departments.

Mrs. Bayer expressed concern about traffic for the house facing Whitman Street since it related to the safety of that area in town.

Mr. Capizzi explained that the original driveway was on Prospect Avenue and then it was changed to Whitman Street, which was 50 ft. from the intersection. He said that there would be no negative effect on Whitman Street and he felt that a Stop sign could be placed there.

There was discussion and Mr. Capizzi stated that they would be willing to pay for the sign.

Mr. Troy closed the meeting to the public for questions and then opened it for comments and testimony from the public.

Bruce Steinthal, of 366 Whitman Street, was sworn in. He stated that it was his belief that a large house built on the existing lot would be completely out of character for the area, and it would be the same for a vacant lot. Mr. Steinthal said that the two proposed units were comparable in dimensions and lot sizes of most of the lots on Whitman, Prospect, and Pleasant. He said he believed that the existing houses were smaller than the house north of the proposed building on Whitman, and in all respects, the proposed units would be beneficial to the neighborhood.

Mr. Steinthal said that the traffic patterns were reviewed and Stop signs were put in approximately 3 to 4 years ago. The issue of traffic going from Schraalenburgh Road to Knickerbocker Road was the more dangerous issue and it could be improved by adding a Stop sign for when drivers go down Prospect. He suggested putting the sign on the west side of the island. He elaborated.

There was discussion about where the Stop sign should be located.

There were no questions for this witness.

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Mr. Capizzi gave his summation and stated that there would typically be two homes side-by-side but the applicant would be creating two lots where only one existed, and the homes would be back to back. He said that the existing lot was unique in that it was fronting on three streets and what they proposed to do now had previously existed.

Mr. Capizzi pointed out that this did not arise by way of a governmental action. He said that this was a benefit for the future. Mr. Capizzi stated that the Resolution would be filed with the Deed and the buyers would be aware of the limitations, which had been heard by the Board. He said that future variances might be for small accessory structures. Mr. Capizzi stated that overall, Mr. Lydon spoke about the positive criteria and he requested that the Board approve this application.

Mr. D'Anton stated that this was a Minor Subdivision for creating two lots, which would be more or less set within the development pattern. He said that the property had a letter from the DEP and the engineer's concerns had already been addressed.

Mr. D'Anton said that Mrs. Bayer was correct about the traffic but it was not the Board's place to take care of it - the Mayor and Council could address that problem. Mr. D'Anton said that generally, this application would be an improvement for the neighborhood because there was a large lot which had been disturbed and they were proposing to have two lots, which could be controlled by record of the Resolution. He explained that the new owners could ask for a variance in the future but they would be on notice, it would have to be approved, and they would have 180 days to do it.

Mr. D'Anton pointed out that one of the conditions, which needed to be addressed, was the issue of the existing trees on the property. The one on Pleasant Street was going to be removed and the others were supposed to stay.

Mr. Troy concurred with Counsel. He said he felt the lot would be better with homes on it and they could include various stipulations relating to the size of the trees, etc. Mr. Troy said he felt building the homes on this lot would be an asset.

Mr. Anderson had questions about the possible intention of the Borough in the 1950s. He said that the applicant was asking the Board to grant a subdivision for two lots with four significant variances. Mr. Anderson stated that under a C-2 variance, the burden of proof was with the applicant and the benefits would have to outweigh the detriments. He asked if the lot size would really be a benefit, if it was a zoning principle, and if that benefit would outweigh the detriment. Mr. Anderson said he felt they had not proved that the benefits of the deviation would outweigh the detriment.

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Mrs. Minikes said that if the Board did not grant the variance and they built a monstrosity house on the 25,000 sq. ft. lot, how would it benefit the neighborhood and neighbors. She felt it would be better with two smaller houses, otherwise, someone could build a very large house and go as wide and as high as they possible could.

Mrs. Albalah stated that there were a lot of larger homes in Haworth. She said she would be concerned because since this lot was so big, someone would build a very large house.

Councilman Rosenberg agreed. He said he believed that considering the variance and the benefits from what they were creating, it would outweigh the negative and it would be overriding the variance. Councilman Rosenberg pointed out that these homes would be consistent but the lot had been vacant and it was not consistent with keeping the character of the neighborhood. Councilman Rosenberg stated that these homes were sized to fit in and when they took all that into account, he would rather have two homes on the lot.

Ms. Kosmac said her concern was that what the applicant said to the Board, would not be built. She said that after the building was constructed, they could go to the Building Officer because they might want a deck. Ms. Kosmac asked to know what the Board was controlling.

Mr. D'Anton explained that the Board could not control people from coming in for a variance. He said they needed to have faith that if an application for a deck was made, the Board which heard this application would come to an appropriate decision. Mr. D'Anton pointed out that there was no proposal there for a variance for each lot; that they had less than the bulk requirements, and that what was said was what was going to be built. Otherwise, nothing was going to be built on that lot.

Councilman Rosenberg stated that there would be a variance process for what the people could build and they had to document what they were proposing to build.

There was discussion about the Resolution being filed with the Deed and if anything could be overturned.

Councilman Rosenberg explained that this applicant would not be permitted to build if they violated the Resolution.

Mr. D'Anton said that the Resolution would be of record and it would be there to identify the bulk requirements on Exhibit A-1. He explained the entire process again.

Mrs. Minikes said it would have all the restrictions and bind the property forever.

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Mr. Posen said he supported the application. He explained that the Zoning Board dealt with issues of hardship and he felt he was speaking on behalf of the Zoning Board. Mr. Posen said that they acted fairly and stayed within the restrictions of the Master Plan and Ordinances. He pointed out that applicants could not get a variance for a deck because of a hardship issue. He elaborated.

Mr. Posen explained the Zoning Board had more often than not turned down those applications. He said he was impressed that the applicant offered to limit the size of the houses and what they said would become binding. Mr. Posen stated that he had to believe them. He pointed out that it was their sensitivity to putting smaller houses on an over-sized lot, which was a mitigating factor. Mr. Posen noted that the proposed houses were not as big as they could have been and they would fit into the neighborhood. He said that they do not have a bulk variance in Haworth and he commented that this was an opportunity to address that issue.

Mr. Anderson said he was concerned with precedent. He talked about the sizes of the lots on the street where he lives and their lack of consistency.

Mr. D'Anton said that just because something had been done, it did not give someone else that right. Mr. D'Anton said he thought that legally, it would not have a binding affect on this community.

M. Troy then entertained a motion subject to the stipulations which the applicant and Counsel had made.

Mr. D'Anton went over the stipulations which included but were not limited to:

- The applicant will comply with any other governmental agencies;
- There will be the standard language that they have to come back depending on the requirements set forth;
- The subdivision has to be perfected within 180 days;
- Attach the Resolution and Deed, which have to be approved by Mr. D'Anton;
- Abide by what was set forth in Exhibit A-1;
- Mr. D'Anton will put in full bulk requirements;
- The applicant will identify the tree on Lot 102, which will be removed and the others will not be removed;
- If there is a recommendation, the applicant will bear the cost of the Stop sign; and,
- Any other things which Mr. D'Anton finds have not been listed.

Councilman Rosenberg commented that the Police Department might have some issues. He said that if the municipality decided to create another Stop sign, then the applicant would have to cover the costs of that sign.

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Mr. Anderson asked that all of this be put into the Resolution.

Mr. Capizzi agreed.

Mr. D'Anton said he would draft the Resolution and then ask for comments.

Mr. Posen moved to approve the application and it should be subject to all the conditions stated by Counsel and all that were given in testimony.

Seconded by Councilman Rosenberg and upon roll call, the vote went as follows: Yes - Mr. Posen, Mr. Rosenberg, Mr. Anderson, Ms. Kosmac, Mrs. Minikes, Mrs. Albalah, Mayor Ference, and Mr. Troy; No - none. Motion carried.

Mr. Troy entertained a motion to go into Closed Session.

Councilman Rosenberg so moved.

Seconded by Mayor Ference and upon roll call, the vote went as follows: Councilman Rosenberg, Mayor Ference, Mr. Anderson, Ms. Kosmac, Mrs. Minikes, Mrs. Albalah, Mr. Posen, and Mr. Troy; No - none. Motion carried.

Mr. Troy entertained a motion to go out of Closed Session.

Mrs. Minikes so moved.

Seconded by Mr. Anderson and unanimously carried.

Mr. Troy reopened the public meeting.

ADMINISTRATIVE

Mr. Troy reminded everyone to let him know the dates they would be available in June which coincided with Mrs. Reiter's availability.

The next meeting of the Planning Board was scheduled for May 15th.

