

Virtual Regular Meeting of the Haworth
Planning Board on October 21, 2020,
via Zoom.

PRESENT Bernard Troy, Chairman
Thomas Ference, Mayor
Andrew Rosenberg, Council Liaison
Andrew Anderson, Vice Chairman
Leona Kosmac, Secretary/Treasurer
Amy Albalah
Tae Chang, First Alternate
Nancy Minikes
Stephanie Mitra

John D'Anton, Board Attorney
Joseph Vince, Board Engineer

ABSENT: Edmond Ezra, Public Official
Caroline Reiter, Board Planner

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

Mr. Ezra was unable to join the meeting because of technical problems.

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 September 2020 meeting were reviewed.

Mr. Anderson asked that page 52, last section, be amended to read, "Mrs. Minikes moved to accept the minutes as amended, subject to the rights of absent members to correct statements made by them."

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Mayor Ference moved to accept the minutes as amended, subject to the rights of absent members to correct statements made by them.

Seconded by Mrs. Minikes and unanimously carried.

MASTER PLAN RE-EXAMINATION RESOLUTION

The Master Plan Re-Examination Memorializing Resolution, which Counsel had prepared and forwarded to everyone, was reviewed.

Mr. Troy entertained a motion to waive reading this Resolution.

Ms. Kosmac so moved.

Seconded by Mrs. Minikes and upon voice vote, was unanimously carried.

Mr. Troy then entertained a motion to adopt the Memorializing Resolution.

Mayor Ference so moved.

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

Mr. D'Anton will send out a copy to all Board Members.

342 WHITMAN STREET MEMORIALIZING RESOLUTION

Mr. Troy stated that everyone should have received a copy of the revised Resolution dealing with Mr. Anderson's comments.

The Resolution was reviewed and there was discussion.

Mr. D'Anton explained that the Resolution was written with a Performance Guide for the applicant to follow.

Mr. Troy pointed out that it was a separate question, which Mr. Vince will talk about.

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Mr. Vince stated that he called Mr. Capizzi and then Mr. Capizzi called the property owner.

The property owner said he was having a problem getting it approved since there were no substitutes. He said that 6 of the 7 trees were delivered that day and would be installed by the end of the week.

Reference was made to a letter from the applicant to Azzolina & Feury Engineering to get the Plan revised.

It was noted that the money had been posted.

Councilman Rosenberg advised that the two-year guaranty has not been produced. He said they needed a receipt for the trees delivered and they have to send the guaranty.

Mr. D'Anton pointed out that this was the Board Engineer's responsibility. He said that in order for them to get a final Certificate of Occupancy (hereinafter, CO), the Building Official would have to talk to Mr. Vince about the final compliance.

Mr. Anderson said that he did not receive a copy of the revised Resolution on October 20th and asked Mr. D'Anton for another copy.

Mr. Troy entertained another motion to waive reading the Memorializing Resolution, which was a draft.

So moved by Mrs. Minikes.

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

Mr. Troy entertained a motion to adopt the Memorializing Resolution with corrections.

Mr. Anderson so moved.

Seconded by Mayor Ference and upon voice vote, all eligible members voted Aye and it was unanimously carried.

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FADER AND ATHON SUBDIVISION

Mr. D'Anton noted that all notices and publications were in order. The application has been deemed complete by Mr. Vince so it is properly before the Board for a hearing.

Constantine Stamos, of Ferraro & Stamos in Rockleigh, New Jersey, appeared on behalf of the applicant.

The following Exhibits were marked into evidence:

- A-1 - Application
- A-2 - Plans – 7 pages - with a last revision date of 4/3/2020
- A-3 - Combined exhibits with proof of publication and service.

- B-1 - Board Engineer's Report dated 10/14/20

Mr. Stamos stated that they were before the Board for a Minor Subdivision at 197 Schraalenburgh Road. He said that it fronted on Schraalenburgh Road and Pine Street, there was an existing house on Schraalenburgh Road, and behind it was a major portion of a road on Pine Street. Mr. Stamos said they needed one variance for lot area.

Michael Dippel, of L2A Land Design in Englewood, New Jersey, was presented as an expert professional engineer. It was noted that he prepared the drawings.

Mayor Ference said that he had coached Mr. Dippel's son in baseball and asked if he needed to recuse himself.

Mr. D'Anton advised him that he did not.

Mr. Dippel and Joseph Vince were sworn in. Mr. Dippel went over his education, background and experience, which included appearing before this Board last month as a civil engineer. He said his licenses were up-to-date.

Mr. Dippel said he prepared the drawings as part of the application and was familiar with the subject property. He gave a description of the property, the existing house, and the proposed subdivision layout.

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Reference was made to Exhibit A-2, page C-01, the Demolition Site-Plan. He said that Lot 197 was a through lot with a slope and wooded area in the back, which abutted Pine Street. He described the back of the property as having a slope - it gets steep in the back of the house and in some places, it is over 15%, and then becomes more consistent towards Pine Street.

Mr. Anderson noted that any area with a slope greater than 15% is a Critical Environmental Area (hereinafter, CEA).

Mr. Dipple went over the Environmental Report. He said that the existing dwelling would be untouched in the back facing Pine Street. Mr. Dipple said that the Plan showed a conceptual home. He said that lots 30 and 28 would continue through and contain a new lot. Mr. Dipple stated that they were proposing a two-story residence with a garage on a lot with 110 ft. width and 105 ft. depth.

Mr. Dipple talked about the Zoning Plan Table. He said that it was in residential Zone A and showed a Compliance Table. He said they were seeking a variance for both lots. Mr. Dipple said that the existing lot was 15,000 sq. ft. with the existing dwelling. It will have 14,300 sq. ft., and the requirement is 15,000 sq. ft. The new lot will be 11,546 sq. ft. and the minimum lot requirement is 12,500 sq. ft. with frontage along Schraalenburgh Road. Mr. Dipple pointed out that there is a jog in the existing property of 15 ft. so they are proposing a 15-ft. wide variance.

Mr. D'Anton said that existing lot was 110 ft., and the proposed lot was 110 ft., however, Mr. Dipple stated that the proposed lot was 125 ft..

There was discussion about the size of the frontage.

Mr. Dipple then stated that they were also seeking a variance for a right-of-way. He said that they were proposing 114 ft. on the front and 104.97 ft. on the Pine Street lot. Mr. Dipple said that if they took away 5 ft., they would not comply.

Mayor Ference asked if they had put a rear lot line on Madison Avenue. He said that when they go to the front, it would be the continuation of the lot.

Mr. Dipple said he thought it was very consistent with the block and the planner would add testimony to this. He reiterated that it was consistent with the lots along Madison Avenue.

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Mr. Dipple said that 75 ft. were required and they met that with 125 ft. on Schraalenburgh Road and 110 ft. on Pine Street. He said that the required 125 ft. setback was existing and he felt they were showing compliance.

Reference was made to Exhibit A-4, Demolition Plan and Mr. D'Anton stated that this Exhibit was not made available to the public, and when they have a Zoom meeting, the public is at a disadvantage.

There was discussion and confusion about which trees were being removed and planted on that Plan.

Mr. Vince directed them to page 2 of the Plan, which showed additional trees.

Page C-02 – Grading Drainage, Utility and Landscape Plan was reviewed. It showed conceptual grading with a small retaining wall with a maximum height of 3 ft. Mr. Dipple said they were proposing a dry well for the French drain at the driveway, and a grade change with an elevation of 128 ft. going to 111 ft.

There was discussion about the different types of houses that could come in.

Upon questioning by Mr. D'Anton, Mr. Dipple stated that they would stipulate that a home could be built which would comply with the setback requirements. He said that if the Board wanted to make it a condition, it would be stipulated that a home which complied with the setbacks would be constructed.

Mr. D'Anton asked if they were almost saying that a new home could be variance free.

Mr. Stamos stated that they did not object to that condition.

Mr. Anderson asked if they received an Environmental Questionnaire or letter from Mr. Vince, and he was told that the Board did not receive either – only a two-page application.

Mr. D'Anton stated that the letter with the report dated October 14, 2020, had been sent.

Mr. D'Anton referred to Mr. Vince's letter dated October 14, 2020.

There was discussion about the utilities and Mr. Dipple said that they saw no issues with providing utilities.

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The Landscape Plan was also discussed and Mr. Dipple said they were proposing conceptual deciduous trees, pine trees, and keeping a fair amount of trees on the site. We are showing that they could remain.

Mr. Stamos stated that they were not proposing any change to Lot 197.

Upon questioning by Mrs. Minikes, Mr. Dipple said they would take down the deck and modify. He talked about soil erosion and sediment control and said there were construction and technical details involved.

Mr. Stamos said that this lot would be the way it is and if someone wanted a new home, nothing would stop them from demolishing the existing home and building a new one. If they were successful, they would create the two lots and they could get a Building Construction Permit for Lot 197 and for the additional 15 ft.

Mr. Stamos pointed out that without the subdivision approval, the envelope would be quite large and he described what they could possibly build. He said that a subdivision approval would create more of a controlled condition with two homes rather than one very large one.

Mr. Anderson asked if that steep slope on both lots would cause problems with using that envelope as they had suggested.

Mr. Dipple said the steepest slope was in the back because they probably pushed some of the soil back - but that was consistent with a lot of places. He said that someone could purchase this property and decide that they want to face Pine Street.

Mr. Anderson asked if there would be some challenges with the slope, and Mr. Dipple responded that he did not think so because this would break the grade within the structure. He elaborated. Mr. Dipple said that the house could be set up so that the resident's car could be pulled into the basement level or they could work on the slope and lessen it too.

Mr. Troy said that he would like Mr. Vince to summarize his report when this expert was finished.

Mr. Stamos said he felt Mr. Dipple covered everything. He said that two homes that abut with the existing home within the setbacks still have a reasonably sized home on the lots.

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Mayor Ference said that Mr. Vince's letter touches on this. He said he was somewhat familiar with this property and it fits in with the relative height of property on Schraalenburgh Road and it runs back to the undeveloped property. Mayor Ference stated that there was a reason why the Borough had a Slope Ordinance. He said that they went front to back with the concept of adding a new home and would have to dig deep back because of the slope. Additionally, they would take the over-sized lot and develop two lots with one *di minimis* variance and the other variance would be rather significant. Mayor Ference asked how that new lot would look with the surrounding area.

Mr. Dipple said he was not trying to minimize the slope - they were going to grade as shown on the Plan and would be very consistent with other homes in the area. He described what the proposed house would have.

Mr. Dipple said he thought he could go up to a 120-ft. grade and then go up another 35 ft. to an elevation of 155 ft. and they could see if they could put a garage underneath.

Mayor Ference said that the front of the house could rise to 35 ft. and the back of the house to the top would probably be into the 20s - but the front would be higher. He elaborated. Mayor Ference said that it would probably look exactly like the house next door.

Mr. D'Anton noted for the record that he knew that the Environmental Assessment Application was received.

Mr. Dipple said that it had been done a few weeks ago. He then went over the application and said he did not see anything that looked like fresh water.

Mr. Anderson asked Mr. Dipple if he was familiar with Chapter 26-502.8c, which says that a slope greater than 15% is a Critical Environmental Area and structures should not be built on such areas.

Mr. Dipple said he would go back to that.

He then said there would be 12 trees larger than 6 inches as shown in the Grading Plan. Mr. Dipple said they showed a number of trees which needed to come down.

Mr. Anderson said he was looking at the grade drainage and there was a swale and surface water.

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Mr. Dipple stated that everybody's lot pitched away from their homes. He said that a swale was a small channel that redirects the run runoff. He said it was good practice to drain away from this house - swales and ditches were encouraged.

Mr. Dipple said he thought soil came off of this site with things such as regrading and digging for basements. If someone came in for a building permit, they would want to know where the soil was going.

Mr. Vince reviewed his letter and report dated October 14th with his recommended requirements. He said he did not agree that the property was 125 ft. wide based on the definition in the Ordinance. Further, he did not agree that there was 110 ft. existing. Mr. Vince said they were going to need a variance for what was being proposed. On Pine Street, the Ordinance requires road widening. He stated that the Board may want to consider an easement instead if they feel it is necessary. Mr. Vince said that Pine Street was consistent with 40 ft. and if a dedication was made, he recommended an easement. He went over what was stated in his report about the size of the lots and said that many lots were over-sized. He went over some of the lot sizes in that area.

Mr. Vince stated that the slope was 15% at the border line. He said that the creation of that property would create a slope greater than was there today. The front and back were based on the average setbacks. Mr. Vince talked about the front and rear setbacks required and stated that he did not think that this property could be developed without a variance in front and back, so he encouraged that to be considered.

Mr. Vince said that the Grading Plan was conceptual on this particular lot and it was because of the steep slope and the grading. The right-of-way has to be reduced and the driveway would be steeper. He explained that the grading around the rear of the house would be high. In addition to what is being shown, there might be more grading involved and the swale would have to be modified.

Mr. Vince referred to his report and talked about tree removal. He estimated that there would be approximately 30 trees removed, and he was proposing 17 replacement trees.

Mr. Vince said that he saw manholes and he recommended that the Board make a condition that utilities would be available. He also recommended that if approved, the existing driveway on the neighbor's property be removed.

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Mr. Vince stated that Schraalenburgh Road was a County Road and was subject to the review of the Bergen County Planning Board and it should be a condition.

There was discussion about the process to create the undersized lot facing Pine Street with a conceptual development of a conforming structure and how the Board would enforce such a condition.

Mr. D'Anton said that one of the problems could be that the subdivision had to be perfected. A third party would get a new lot and conditions would run with the land. The applicant was saying that the new house would be 1500 sq. ft., but there was a question of whether the new owner could build a house of that size and proportion.

Mr. Vince pointed out that if the Board voted without conditions and stipulations, that lot owner could make an application for a new house. If there were stipulations, it would be fully conforming. He warned that the bigger hurdle would be the setbacks but the Board would want to know what the setbacks were going to be, and what the size of the envelope would be. Mr. Vince said that it should be 25 ft. in front or the average setback – whichever was greater. If the average setback and rear is into the property, the house would be smaller because we do not know the average setbacks. He said he would investigate the setbacks of the adjoining and nearby houses. Mr. Vince pointed out that the general topography was somewhat consistent to the lot.

Mr. Troy asked for questions from the Board.

Mrs. Minikes asked about the hill-grading issue and Mr. Vince stated that he agreed with the engineer's testimony about a natural hill but this was steeper and he felt that part of the excess dirt with 3 to 1, was because it might be artificially graded.

Mrs. Albalah commented that the engineer mentioned that any house could actually have a patio or something in the back. Since it is so tight right now, she asked how it would work and was it realistic.

Mr. Dipple said that the reason that the deck was removed was because they felt it was part of the structure but he did not believe that was not included. Therefore, he felt the patio could extend to the rear back. He elaborated.

Mr. Anderson pointed out that the definition of a structure, which could be found in the Ordinance Chapter 26-301, includes a patio.

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Mrs. Albalah asked about removing the asphalt on the property. She said It was there anyway and there was the question of whether it would already have oil on it from something having been placed on it.

Sarah Fader, the property owner, said it was there.

Mr. Troy opened the meeting to the public.

Surgej Pulver, of 210 Pine Street, said he was a direct neighbor to 197 Schraalenburgh Road. He said he wanted to make a statement and not ask a question, so he would give it later.

Dr. Ivan Ngai, of 197 Pine Street said he lived directly across from the proposed new lot. He said that the statement about the lot width was never defined, and the property to the west was only 110 ft. on Pine Street. Mr. Ngai said that if anyone wanted to build, the existing lot the width was 125 ft. and he did not disagree. Dr. Ngai said the existing lot had a large building envelope and a very large structure could be built. He asked if it would require an applicant to go before the Board of Adjustment

Mr. Troy said that all the maps showed that the frontage on Pine Street would not be any more than 110 ft.

Mr. Stamos said that it was an existing non-conforming condition and they wanted to comply with the building setback. Nevertheless, they were allowed to build on the existing setback.

There was a question about needing another Board review for the 15% steep[slope.

Mr. Dipple said they looked at the Code and they hoped to be building on that slope

Mr. Vince noted it said that with any Developer's Application, there was an additional check list. If the Code finds there is an environmental impact, it would have to go to the Board for review.

Mr. Anderson said that Chapter 26-502.8c, addresses Critical Environmental Area (hereinafter, CEA).

Mr. D'Anton read the definition of CEA. He said that the 15% slope makes this a Critical Environmental Area and the applicant's engineer had to address this issue.

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Mr. Dippel said that he needed to do more analysis.

Mr. D'Anton stated that the Board's Engineer has identified it as 15% - and it might be greater. If the Ordinance says that you cannot build on a slope of 15% or greater, all testimony has to be re-evaluated to find out if this lot was CEA and would there be other restrictions.

Mr. Dippel said he did not disagree but he did not have a steep slope map to check on it.

Mr. Vince said he agreed with Mr. Dippel. It appears that there are areas which are showing development on lots that are less than 15%.

Mr. D'Anton stated that he did not feel that this could be answered this evening. He suggested that they continue with the public's questions at this time.

Dr. Ngai talked about the road conditions on Pine Street. He said that a 3 to 4 ft. wide sink hole developed. He also talked about the traffic in their cul-de-sac and how the impact of the new home would be tremendous. Mr. Ngai asked how the wear and tear would be on the roads and if other sink holes could develop. He asked if there had been a study on traffic and road conditions. Dr. Ngai stated that a single-family residence supposedly had 10 trips per day and he felt that 10 trips a day was not be a substantial count.

Mr. Dippel stated that it was beyond the application to do a survey, and he felt it would not have any impact on the traffic in the cul-de-sac.

Mr. Troy stated that they would have the Board's Engineer send a letter about additional items he would like covered in the testimony. He then told Mr. Stamos that he would like his permission to carry this hearing until the next month.

Mr. D'Anton asked that the Applicant address both questions as to whether this was a CEA matter and the exact percentage of the slope. He said that they could not build on that lot if that was the case, and also for the reasons given by Mr. Vince's comments.

Mr. Stamos stated that the Board had their consent to carry the hearing with no further notice. He said that he should be contacted if they have documents. He was reminded that the requested information should be submitted in due time.

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Mr. Troy said that for the members of the public who had been listening and who had any questions, he wanted them to know that the witnesses would be brought back and the questions could be asked in November. He announced that petitions would not be allowed.

MAYOR'S REPORT

Mayor Ference reported on the following:

Senior Van

- A senior van has been borrowed from the County and the Borough's application has been approved for NJ Transit to help cover the cost. Because it might be two years before it is finalized, the Borough has been guaranteed a van from the County. Mayor Ference noted that this was under the Master Plan.

Shade Tree Ordinance

A draft of the Shade Tree Ordinance was presented to the Governing Body by the Environmental Commission. They have had this before, drainage will be needed and the matter will be referred to the Planning Board as well as the Shade Tree Commission. It was noted that this had to be consistent with the Master Plan.

In the interest of time, it might be useful for 2 or 3 members of this Board to do a review.

Mr. Troy will send out an email message to the Board regarding this request.

COUNCIL REPORT

Councilman Rosenberg had nothing to report at this time.

