

PLANNING BOARD MEETING MINUTES – JANUARY 8, 2020

The monthly Planning Board meeting was called to order at 7:30 PM by Mr. Phelps who read the following statement: Adequate notice of this meeting held this 8th day of January, 2020 has been provided through resolution adopted by this Board at its stated annual meeting held at the Town Hall on January 9, 2019 and by posting a copy of the resolution in the Town Hall and by mailing the resolution to the Citizen and the Daily Record which are published in New Jersey and which circulate in the Town of Boonton and by filing a copy of the same with the clerk of the Town of Boonton.

After the flag salute, the secretary called the roll: Mr. Brewer, Mr. Looker, Mr. MacNeal, Mr. Orlusky, Mr. Phelps, Mr. Wrobel, Mr. Venturini, Ms. DeVenezia and Mayor Corcoran were present.

Matthew Posada, Atty. , Jeffrey Janota, Planner and Joseph Vuich, Engineer, were also present to represent the Board.

BOARD REORGANIZATION

Re-Appointed Board members Mark Wrobel and Adam Brewer were sworn in and signed their respective oaths.

A motion was made and seconded to nominate Mr. Phelps as **Board Chairman**. No other nominations made. A motion was made and seconded to appoint Mr. Phelps as Board Chairman. All in favor. Motion Carried.

A motion was made to nominate Bruce MacNeal as **Vice Chairman**. No other nominations made. A motion was made and seconded to appoint Bruce MacNeal as Vice-Chairman of the Board. All in favor. Motion carried.

A motion was made and seconded to approve the following Annual Resolution which includes meeting dates, appointments of Board professionals and official newspapers:

BOONTON PLANNING BOARD ANNUAL RESOLUTION - 2020

BE IT RESOLVED by the Planning Board of the Town of Boonton that Matthew Posada, Atty., be appointed Board Attorney on a sixty (60) day interim basis at rates contained in 2019 signed contract with the Town of Boonton.

BE IT RESOLVED by the Planning Board of the Town of Boonton that H2M Associates Inc. be appointed Board Planning Consultants at rates contained in the 2020 signed contract with the Town of Boonton.

BE IT RESOLVED by the Planning Board of the Town of Boonton that Suburban Consulting Engineers, Inc. be appointed Board Engineering Consultants at rates contained in the 2020 signed contract with the Town of Boonton.

BE IT RESOLVED by the Planning Board of the Town of Boonton that Marianne Marcello be appointed Board Secretary.

BE IT RESOLVED by the Planning Board of the Town of Boonton that:

The Planning Board of the Town of Boonton hereby designates the second Wednesday of each month as the day of its regular meetings. Monthly meetings will start at 7:30 PM. Meetings are held in the courtroom of Town Hall, 100 Washington Street, Boonton, NJ. The Board's 2020 Meeting Schedule is attached hereto. *{January 8, February 12, March 11, April 8, May 13, June 10, July 8, August 12, September 9, October 14, November TBD, December 9, 2019 and January 13, 2021}*

Except as hereinafter provided, notice of regular and special meetings of the Board shall be posted 48 hours in advance at the following location: Main Bulletin Board in Boonton Town Hall, 100 Washington Street, Boonton, NJ.

The following two newspapers circulating in Morris County are hereby designated newspapers for the publishing of all legal notices of the Board: (a) **Citizen** and (b) **Daily Record**.

A copy of advance notices of regular and special meetings of the Board shall be filed with the Secretary. Advance notice of regular and special meetings of the Board shall be mailed to the Citizen and Daily Record and delivered to the Town Clerk and posted on the Municipal Bulletin Board.

Any person may request, in writing, that the Board mail to him or her a copy of the schedule of regular meetings of the Board and/or written notice of regular, special or rescheduled meetings of the Board. Request shall include prepayment of fees established by the Clerk of the Town of Boonton. Upon prepayment by such person of the applicable fee, all requests made pursuant to this paragraph shall terminate at midnight, December 31st of the current year, subject to renewal thereafter upon the filing of a new written request and prepayment of the applicable fee.

All advance notices referred to in this resolution of regular, special or rescheduled meetings of the Board, shall to the extent known, include: a. Agenda and b. Those matters which formal action may be taken

Upon the affirmative vote of 3/4ths of the Board members present, the Board may hold a meeting without compliance with the notice requirements of this Resolution, if such meeting is required to deal with matters of such urgency and importance that delay, for the purpose of providing adequate notice, would be likely to result in substantial harm to the public interest.

This is a certified copy of a Resolution adopted by the Planning Board at its meeting held on January 8, 2020.

All in favor. Motion carried. Resolution approved.

REGULAR MEETING

PAYMENT OF BILLS:

A motion was made and seconded to pay all bills as submitted. All in Favor. Motion carried.

MINUTES

The minutes of the December 11, 2019 meeting action were accepted.

CORRESPONDENCE – NONE

RESOLUTION OF APPROVAL

APPLICATION 2019-5 DATTOLO

BLOCK 44.01, LOT 7 – LIBERTY STREET

STEEP SLOPE VARIANCE – NEW SINGLE FAMILY DWELLING

Whereas Philip and Donald Dattolo, hereinafter referred to as “Applicants,” have applied to this Planning Board for variance relief to permit excess disturbance of steep slopes in connection with the construction of a new one family dwelling on premises located at 660 Liberty Street, also known as Block 44.01, Lot 7 which premises are in the R-1A Residential Zone (the “Property”), and

Whereas, by ordinance adopted by the Mayor and Board of Aldermen of the Town of Boonton under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one board which, possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the MLUL, N.J.S.A. 40:55D-1 et seq., said single board being known as the Planning board of the Town of Boonton; and

Whereas, the application was the subject of public hearings held by this Planning Board on November 13, 2019 and December 11, 2019 at which hearings the Applicants’ engineer, Paul Anderson, presented testimony and exhibits in favor of this Planning Board granting the requested relief.

Now Therefore, Be it Remembered, that this Planning Board, at its official public meeting held on December 11, 2019, in accordance with the Open Public Meetings Act did make the following findings of fact, conclusions and determinations:

1. The applicants have provided the required written notice to property owners, and where required by law, those utilities that have requested written notice of applications. The applicants have also provided proof of timely publication of the notice in a newspaper designated by the Town of Boonton for publication of legal notices. Proof of payment of taxes were also presented. The Board therefore has jurisdiction to determine this matter.
2. This Board serves as a combined Planning Board and Board of Adjustment pursuant to NJS 40:55D-25(c). For purposes of this application, this Board sat as a Board of Adjustment with all powers granted to same under the MLUL.
3. The property in question is square-shaped. It is located on the westerly side of Liberty St., north of North Street. The property has frontage of 100 feet, and it has an average depth of 100 feet. The parcel is mostly unimproved as a wooden vacant lot.
4. The property is located in the Town’s R-1A Residential Zone which generally permits one family dwellings and certain residential accessory structures on lots of 12,500 square feet. With an area approximately 10,000 square feet, the property does not comply with the required minimum lot size provisions of the ordinance, and therefore is an existing nonconformity. The tax map submitted in conjunction with the application reflects that other lots in the area vary in size and shape, some larger and some smaller than that of the applicants.
5. The topography of the lot is such that it slopes downward from back to front as the Property is currently encumbered by steep slopes (over 15% slope), encompassing approximately 8,732.39 square feet of the 10,000 square foot lot, or 87.32% of the lot’s area. As proposed, approximately 8,333.19 square feet of the 10,000 square feet, over three-quarters (83.33%) of the entire lot, and 87.6% of the steep slope areas (slopes over 15%) will be disturbed. Specifically:

- a. In the area of the property containing slopes of 15% to 19.99% the slope disturbance will be approximately 94.97%. The ordinance permits maximum disturbance of 40%.
 - b. In the area of the property containing slopes of 20% to 24.99%, the slope disturbance will be approximately 92.58%. The ordinance permits maximum disturbance of 20%.
 - c. In the area of the property containing slopes of 25% to 29.99%, the slope disturbance will be approximately 86.45%. The ordinance does not permit slope disturbance in the 25% to 29.99% slope category.
 - d. In the area of the property containing slopes in excess of 30%, the slope disturbance will be approximately 73.14%. The ordinance does not permit slope disturbance in excess of the 30% slope category.
6. Accordingly, applicants now seek variance relief to permit the increased disturbance as set forth above for the construction of a single-family residential dwelling.
7. In connection with this matter, the Board has reviewed the following:
- a. Completed Application for Development, dated August 26, 2019.
 - b. Checklist for determining Completeness of application for Development, dated August 27, 2019.
 - c. Application for Variance, dated August 27, 2019.
 - d. Survey of Property , prepared by Marc J. Cifone of Lakeland Surveying, last revised on April 28, 2019.
 - e. Site Plans (4 sheets), prepared by Anderson Consulting Services, dated July 1, 2019.
 - f. Tax Map for Block 44.01, Lot 7, Sheet 16.
 - g. Certified listing of names and addresses within 200 feet of subject property dated August 29, 2019.
8. The following objector and/or concerned citizen appeared at the hearing. He was duly sworn. Through his testimony, the Board makes the following additional findings of fact.
9. Sam Porfido of 661 Liberty St. indicated that in his view the development of the property would cause issues associated with stormwater management, specifically stormwater discharge will adversely impact adjacent properties, he also shared concern that retaining walls and related improvements may have been removed from the site by the applicants prior to the issuance of the appropriate Town approvals/permits for same.
10. Applicant, Phil Dattolo, was duly sworn and discussed the application. Through his testimony, the following photographs were marked as set forth below and introduced into evidence:
1. Exhibit A-1- Photos of the property, dated May 29, 2019 and May 30, 2019.
11. Mr. Dattolo testified that the photographs demonstrate no retaining walls are located on the site contrary to Mr. Porfido's testimony at the November 13th hearing.
12. Applicants engineer, Paul Anderson, P.E., P.P., was duly sworn and discussed the application, including the plot plan, water service connection, standard sanitary house connection, drywell detail, grading plan, soil and sediment control plan, slope plan, and test pit logs.
13. Mr. Anderson stated that test pits and soil log work were performed and witnessed by Board Engineer, Joseph R. Vuich, P.E., as required by the Board at the November 13th hearing. Mr. Anderson described the location of the test pits and stated results showed that the soil was suitable for recharging storm water, the soil is conducive for the development of a residential dwelling, and that the proposed improvement will not cause stormwater runoff, which could adversely impact adjacent properties. Mr. Anderson also testified that the NJDEP and RSIS stormwater management standards do not apply to this single-family residential development, which is defined as a minor development, however, that the 2-inch storm drainage will be adequate for the site. Mr. Anderson testified that the applicants will submit a grading plan regarding same subject to the Town Engineer's review and approval. Mr. Vuich confirmed

Mr. Anderson's testimony and emphasized that development of the site will not pose a detriment to the surrounding area.

14. Mr. Anderson further testified regarding the requested variance relief for maximum slope disturbance. Mr. Anderson stated that variance relief can be satisfied by both the c(1) hardship and c(2) advancement of the MLUL. Specifically, the site imposes a c(1) hardship and c(2) advancement of the MLUL. Specifically, the site imposes a c(1) undue hardship as the property is a preexisting nonconforming undersized lot, which does not meet the minimum lot size depth requirement, and is further complexed by the presence of steep slopes. Also, under c(2), granting the variance relief will advance the MLUL as it will provide sufficient open space for residential usage and will promote the public health and general welfare since the proposed stormwater management will improve the stormwater runoff currently existing on the property. Mr. Anderson testified that these zoning benefits will substantially outweigh any detriment resulting from the grant of the variance and that the c(2) variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance.
15. Furthermore, the Site Plan demonstrates not only that a hardship incident to the steep slope of the property will be dealt with, but also that purposes of zoning as articulated in NJSA 40:55d-2a and 2g of the MLUL will be advanced and therefore the plan satisfies the burden of proof with regard to both the c(1) and c(2) sections of NJSA 40:55D-70c.

AND WHEREAS the Board has determined that the relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Town of Boonton for the following reasons:

1. The proposed residential construction on the property will continue to be consistent with the residential character of the neighborhood.
2. The additional steps taken by the applicants to stabilize and ameliorate the steep slope aspect of the property will lessen the impact of the development of the subject property on neighboring property owners.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Town of Boonton on the 8th day of January, 2020 that the application of Philip and Donald Dattolo is granted, subject however to the following conditions:

1. It is anticipated that the stormwater runoff from the site to adjacent properties will not adversely impact those parcels as a result of the proposed improvements. Applicants shall provide existing grades and depict existing drainage patterns to insure that the proposed improvements will not disrupt any existing drainage pattern that will result in adverse impact to adjacent properties.
2. Applicants shall comply with all applicable building codes in the construction permits and certificate of occupancy.
3. The within approval is conditioned upon the applicants making payment in full of all sums due or to grow due on account of review and processing fees within twenty (20) days of the date of being billed for same by the administrative officer. No certificate of occupancy shall be issued until such fees have been paid in full. In the event that applicants fail or refuse to pay such fees the Planning Board reserves the right to declare the within resolution of memorialization and any relief granted pursuant hereto to be null and void and of no further effect.
4. The applicants shall be bound to comply with the representations made before this Board by the applicants at the public hearing and the same are incorporated herein and are representations upon which this board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.

5. The improvements shall be constructed in accordance with the plans submitted and the terms and provisions of the within resolution.

ADOPTED this 8th day of January, 2020, by the Planning Board at such meeting who voted for the action taken on December 11, 2019.

A motion was made and seconded to approve the Resolution. ROLL CALL: Messrs. Brewer, Looker, MacNeal, Orlusky, Phelps, Wrobel and Venturini – YES. Motion Carried.

**PUBLIC HEARING
FAIR SHARE HOUSING PLAN – AMENDED**

Mr. Steve Lydon, of Burgis Associates, presented the amended 2020 Housing Element and Fair Share Plan. He gave a brief historic overview of the plan. He then went over the three sections of the Plan; namely: the Housing Element, the Fair Share Obligation and the Fair Share Plan.

After discussion by the Board and opening the meeting to the public for discussion, a motion was made and seconded to adopt the updated Town of Boonton Housing Element and Fair Share Plan which includes the following Resolution:

**RESOLUTION NO. 2020-001
A RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF BOONTON ADOPTING AN UPDATED HOUSING ELEMENT AND FAIR SHARE PLAN**

Whereas, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV), on or about July 2, 2015, the Town of Boonton (“Town”) filed a Declaratory Judgment Complaint in the Superior Court of New Jersey, Morris County – Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (“HEFSP”) TO BE AMENDED AS NECESSARY, SATISFIES ITS “FAIR SHARE” OF THE REGIONAL NEED FOR LOW- AND MODERATE-INCOME HOUSING PURSUANT TO THE “Mount Laurel doctrine,” and

Whereas, the Town simultaneously sought, and ultimately secured, a protective order providing the Town immunity from all exclusionary zoning lawsuits while it pursued approval of its HEFSP, which immunity remains in full force and effect; and

Whereas, the Town and Fair share Housing center (FSHC”) engaged in good-faith negotiations, which resulted in the entering into of a settlement agreement (“Settlement Agreement”) dated March 19, 2018 between the Town and FSHC; and

Whereas, a Fairness hearing was held on May 4, 2018 before the Honorable Maryann L. Nergaard, J.S.C., during which the Settlement Agreement was approved, as memorialized by an Order on Fairness and Preliminary Compliance Hearing (“Order”) entered by the Court on May 4, 2018; and

Whereas, as per the terms of the Settlement Agreement and the court’s Order, the Town’s affordable housing Planner prepared and HESFP, which was adopted by the Town of Boonton Planning Board (“Planning Board”) at a duly noticed public hearing on August 8, 2018, and

Whereas, the Mayor and Board of Aldermen of the Town of Boonton (“Mayor and Board of Aldermen”) endorsed the HEFP pursuant to Resolution #18-219, which was adopted on August 20, 2018; and

Whereas, the Town and FSHC subsequently entered into an amended settlement agreement (Amended Settlement Agreement”) dated November 25, 2019 between the Town and FSHC, which supersedes the previous agreement dated March 19, 2018; and

Whereas, as per the terms of the Amended Settlement Agreement, the Town’s affordable housing Planner prepared and updated HEFSP, which has been reviewed and modified by the Town’s affordable housing counsel and which is attached hereto with Appendices as Exhibit A; and

Whereas, the members of the Planning Board have reviewed the updated HEFSP, and have determined to adopt same; and

Whereas, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the updated HEFP on January 8, 2020; and

Whereas, the Planning Board has determined that the attached updated HEFS is consistent with the goals and objectives of the Town’s current Master Plan, and that adoption and implementation of the updated HEFSP is in the public interest and protects public health and safety and promotes the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning board of The Town of Boonton, County of Morris, and State of New Jersey, that the Planning Board hereby adopts the updated HEFSP attached hereto as Exhibit A.

ROLL CALL: Messrs. Brewer, Looker, MacNeal, Orlusky, Phelps, Wrobel, Venturini, Corcoran and Ms. DeVenezia – YES. Motion carried.

PUBLIC HEARING
CONCEPT PLAN – APPLICATION 2019-7 SUBRO REALTY
BLOCK 69, LOT 75.09 – 600 MYRTLE AVE.

Anthony Garrett, PP, was present on behalf of Subro Realty. He described a concept site plan for an 1800 SF addition to the existing shopping center at 600 Myrtle Ave. The addition would be on the end of the building closest to the car dealership building. The proposed use would be a coffee shop with drive-thru. He described the proposed circulation and mentioned that there is a R.O.W. to the north of the property that this proposed coffee shop would utilize. He felt that the proposed use would not pose any circulation problems on the property. At the conclusion of his presentation, Mr. Garrett thanked the Board for their time.

PUBLIC HEARING
APP. 2019-6 WAQAR ENTERPRISES
BLOCK 96, LOT 8 – 105 HARRISON ST.
SINGLE FAMILY DWELLING WITH VARIANCES
REQUEST TO BE CARRIED TO MARCH 11, 2020

A motion was made and seconded to carry the hearing to March 12, 2019. All in favor. Motion carried.

PUBLIC HEARING

**APPLICATION 2019-3 BARRISTER LAND DEVELOPMENT
BLOCK 118, LOTS 1.01, 2 & 10.04 – CHESTNUT ST.
MAJOR SITE PLAN**

Tom Malman, Atty., was present to represent the applicant. He advised that the applicant proposes to construct thirty-two (32) multi-family age restricted units in the Town of Boonton. The applicant will dedicate six (6) units to Affordable Housing. There will be one other unit located in the existing single-family dwelling on Chestnut Street. This unit will be rented at market-rate. The project is in association with an approved multi-family development in the Township of Boonton.

Daniel LaMothe, PE, Robert Milanese, Principal of the Applicant, and Thomas Brennan, AIA, were sworn to testify.

Mr. Melanese stated that the units will be for rent only and not for sale. They will be age restricted. The units located in Boonton Township will NOT be age restricted. While referring to a colorized version of the Site Plan (**MARKED A-1**), he advised that access to the units will be provided through the Boonton Township portion of the site. There will be no access from Chestnut St. There will be emergency access and walking easements for pedestrians to the property through the rear parking lot of King's grocery store in the Dels Village Shopping Center. He further stated that private garbage pick-up and snow removal is proposed. There will be a sewer pump station on the Township portion of the project and Boonton Town water will service the entire project. He advised that all necessary access easements have been secured and recorded.

Meeting open to the public for questions of Mr. Melanese. No questions.

Daniel LaMothe, PE, advised that his firm prepared the site plan associated with the application. He referred to Exhibit A-1 and described the site. The multi-family building will be three stories with each story consisting of 15,000 square feet. The existing single-family residential building is to remain on Lot 10.04. Mr. LaMothe described the proposed parking for the project and felt it acceptable for the 32 apartments (9 one-bedroom, 23 two-bedroom). There are no variances being sought for the project.

Mr. LaMothe stated that there will be no detrimental impact to the neighborhood drainage; in fact, he felt that neighborhood drainage would be improved. He described the landscaping and buffer areas as well as the proposed lighting.

Mr. LaMothe referred to Sheet 1 of 11 of the site plan (**marked A-2**) and described the layout plan showing parking area and loading space for deliveries. He further pointed out that there would be 6 handicap spaces.

Mr. LaMothe testified that he and the applicant will work with the Town Engineer to address all comments/concerns as mentioned in Suburban Consulting's report of Dec. 11, 2019. He also testified that the applicant had no objections to the comments and concerns in H2M's report of December 6, 2019.

Regarding the Environmental Impact Statement, Mr. LaMothe stated that there will be no negative impacts on wildlife on the site. Since the units will be age-restricted to 55+ he sees no impact on the town school system. He added that no one under the age of 19 yrs. will be allowed to live there.

Mr. Janota questioned whether or not there would be dedicated parking spots for residents. Mr. LaMothe stated that none are proposed at this time but that will be worked out with the homeowner's association. The association will also be required to maintain the retention basin.

Mr. Vuich advised that preliminary planning on this project has been very extensive. He is confident that any of his concerns mentioned in his December 11, 2019 report will be handled and complied with.

Meeting open to the public for questions of Mr. LaMothe. No questions.

Tom Brennan, Architect, referred to the floor plans (**marked A-3 & A-4**). He described the plans and advised that they comply with ADA requirements. The affordable units will be mixed in with the other units. All of the affordable units will be one-bedroom.

Meeting open to the public for questions or comments on this application. No members of the public had questions or comments.

After a brief discussion amongst Board members, a motion was made and seconded to APPROVE the application with condition that all comments and concerns as mentioned in H2M's report and Suburban Consulting Engineer's report are complied with.

ROLL CALL: Mr. Brewer, Mr. Looker, Mr. MacNeal, Mr. Orlusky, Mr. Phelps, Mr. Wrobel, Mr. Venturini, Ms. DeVenezia and Mayor Corcoran – YES. Motion carried.

Meeting open to the public for non-agenda matters. No members in the audience had questions or comments.

A motion was made and seconded to adjourn at 9:45. All in favor. Motion carried.

Respectfully submitted,

Marianne Marcello, Board Secretary