

# **BERNARDS TOWNSHIP**

## **PLANNING BOARD**

### **MINUTES**

Regular Meeting  
September 4, 2018

Chairwoman Piedici called the meeting to order at 7:30 PM.

### **FLAG SALUTE**

### **OPEN PUBLIC MEETING STATEMENT**

Chairwoman Piedici read the following open meeting and procedural statement:

"In accordance with the requirements of the Open Public Meetings Law of 1975, notice of this regular meeting of the Planning Board of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, NJ, was sent to the Bernardsville News, Bernardsville, NJ, and to the Courier News, Bridgewater, NJ, on January 19, 2017 and was electronically mailed to those people who have requested individual notice and paid the required fee.

The following procedure has been adopted by the Bernards Township Planning Board. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM."

### **ROLL CALL:**

Members Present: Asay, Bianchi, Coelho, Crane, Damurjian, Hurley, McNally, Piedici, Surano, Zaidel  
Members Late: NONE  
Members Absent: Malay  
Also Present: Board Attorney, Jonathan E. Drill, Esq.; Board Planner, David Banisch, PP, AICP;  
Township Planner, David Schley, PP, AICP; Board Secretary, Cyndi Kiefer

On motion made by Mr. Surano and seconded by Mr. Crane, all in favor and carried, the absence of Deputy Mayor Malay was excused.

### **APPROVAL OF RESOLUTION**

[\*\*Resolution #PB17-008A; C. Bell & CC Edwards Dev. LLC\*\*](#); Block 7702, Lots 10 & 11; 3526 & 3536 Valley Road; Final Major Subdivision Extension of Time for Signature; (approved).

Committeewoman Bianchi moved approval of the resolution as amended. Second by Ms. Asay.

Roll Call:

Aye: Asay, Bianchi, Coelho, Crane, Damurjian, McNally, Piedici  
Nay: NONE  
Ineligible: Hurley, Surano, Zaidel

Motion carried.

Mr. Crane recused himself and left the room.

### **PUBLIC HEARING**

[\*\*Proposed Amendment to Housing Plan Element and Fair Share Plan - Final Draft.\*\*](#)

Mr. Banisch was duly sworn by Mr. Drill.

Mr. Banisch testified that the amended Housing Plan Element and Fair Share Plan (HPEFSP) which was the subject of this public hearing, had been filed on time (August 24, 2018) with the Somerset County Planning Board and the State of New Jersey Office of Planning Advocacy. On August 27, 2018, he had issued a revised document however none of the revisions were substantive. He then gave a brief overview of the evolution of the affordable housing process since the original Mount Laurel decision in 1975 and highlighted how the Township had successfully responded to its obligations during each step of that process. The Township's current affordable housing obligation number had been

identified using the "Jacobson Methodology" (named after a ruling in early 2018 by Mercer County Superior Court Assignment Judge Mary Jacobson).

Mr. Banisch explained the three (3) components of the Township's current obligation.

The first component, the Rehabilitation Obligation (present need) is 44 units. Mr. Banisch stated that this number is an estimate and that the number could be reduced once the final number is issued.

The second component, the Prior Round Obligation of 508 units for years 1987 through 1999, has been addressed by the existing inventory of affordable housing units and credits.

The third component, the Round Three Fair Share Obligation of 873 units, is comprised of two (2) parts: the Gap Present Need Obligation (435 units for the 1999-2015 time period) and the Prospective Need Obligation (438 units for the 2015-2025 time period).

Mr. Banisch stated that the total obligation is 44 rehabilitation units and 1,381 affordable housing units. He discussed the various sites that had been considered for affordable housing new construction. Valley Brook I and Valley Brook II (Veterans Administration Campus), Dewy Meadow Shopping Center, Crown Court and 180-181 Mountain View Boulevard were selected, enabling the Township to meet its Round Three Fair Share Obligation through new construction units, credits and extension of affordable controls on existing units.

Mr. Banisch explained that the Township had vigorously pursued inclusion of the almost 250 Ridge Oak affordable housing rental units built in 1979. The Fair Share Housing Act excludes units built before 1980 however the Township argued that because those units had recently received substantial upgrading, they should be included. He noted that even though the Township's argument was unsuccessful, the agreement does acknowledge those units and states that if the law changes, they will be credited.

Mr. Banisch testified that the Township had signed a settlement agreement for its Round Three Fair Share Obligation with the Fair Share Housing Center. This agreement necessitated the adoption of the proposed amended HPEFSP along with various zoning ordinance revisions. Once this has been completed, the Township will appear before New Jersey Superior Court Judge Thomas Miller with a request for a Judgment of Compliance and Repose, providing immunity from Mount Laurel lawsuits through 2025.

Mr. Banisch then reviewed the comments and revisions suggested by the board members. A discussion ensued concerning the potential impact on schools and Mr. Banisch suggested that the appropriate venue for that consideration would be during the Planning Board's re-evaluation of the Master Plan in 2020. Committeewoman Bianchi added that the most current demographic studies are available on the Township's website.

Hearing no further questions or comments from the board members, Chairwoman Piedici opened the meeting to the public for comments or questions to Mr. Banisch. The following residents were duly sworn and voiced concerns about the proposed affordable housing project on the 180-181 Mountain View Boulevard site and the affordable housing process in general:

- Lourdes Cornejo-Krohn, 25 Emerald Valley Lane
- Rosella Wolfson, 95 Emerald Valley Lane
- William Allen, 44 Holmesbrook Road
- Megan Leitch, 122 Emerald Valley Lane

In response to comments made by the public, Committeewoman Bianchi advised that policy decisions such as selecting developers, signing settlement agreements and revising/creating zoning ordinances were strictly under the Township Committee's purview. She added that the Planning Board's jurisdiction was limited to adopting an amended HPEFSP and determining whether an ordinance is inconsistent with the Master Plan. Finally, she explained that alternatives to inclusionary development were explored but turned out to be too expensive.

Hearing no further comments or questions, Chairwoman Piedici closed that portion of the meeting.

After the Board completed its deliberations, Mr. McNally made the following motion:

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Bernards Township Planning Board (the "Board"), has held a public hearing on the proposed 2018 Amended Third Round Housing Plan Element and Fair Share Plan on September 4, 2018;

WHEREAS, upon the conclusion of the public hearing, and after certain clarifying language changes were read into the record, the Board determines that the proposed 2018 Amended Third Round Housing Plan Element and Fair Share Plan will guide the use of lands in the Township in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28, considers the lands that are most appropriate for construction of low and moderate income housing in accordance with N.J.S.A. 52:27D-310, and is designed to achieve access to affordable housing to meet the Township's Mount Laurel constitutional affordable housing obligations.

Second by Dr. Coelho.

Roll Call:

Aye: Asay, Bianchi, Coelho, Damurjian, Hurley, McNally, Piedici, Surano, Zaidel  
 Nay: NONE  
 Ineligible: NONE

Motion carried.

**ORDINANCE REFERRAL**

**Ordinance #2405**- "An Ordinance of the Township of Bernards, County of Somerset, State of New Jersey, Amending, Revising and Supplementing the Code of the Township of Bernards, Chapter 21, "Revised Land Use Ordinances," to Create a New MH-1 Multifamily Housing Zone."

Mr. Drill advised the board members that pursuant to NJS 40:55D-26, their responsibility was to determine whether the proposed ordinance is inconsistent with the Master Plan and to report their findings and recommendations if any, to the Township Committee.

After being duly sworn by Mr. Drill, Mr. Banisch referred to his memo dated August 31, 2018, stating that, in his opinion, the proposed ordinance is *not inconsistent* with the Master Plan because of the amended housing element that had just been adopted.

Committeewoman Bianchi suggested some additional verbiage for §21-10.4.2.b.4 as follows: "Maximum number and specification of multifamily dwelling units: 280 dwelling units, which shall include not less than 60 townhouse units including townhouse units provided in buildings containing as few as two (2) units (there is a 280 dwelling unit cap on the number of dwelling units in the MH-1 Zone and a two-unit building qualifies as two townhouse units not withstanding any ordinance definition for dwelling unit); provided that no less than..." (proposed additional wording underlined).

Chairwoman Piedici opened the meeting to the public for questions and comments. She reminded the audience that the Planning Board did not have the authority to *approve* the proposed ordinance. The following resident was duly sworn and voiced concerns about the zoning revisions:

- Lourdes Cornejo-Krohn, 25 Emerald Valley Lane

Hearing no further public comment, Chairwoman Piedici closed that portion of the meeting.

Ms. Asay moved that the proposed additional verbiage for §21.10.4.2.b.4 as read by Committeewoman Bianchi be recommended to the Township Committee for inclusion in proposed Ordinance #2405. Second by Mr. Zaidel.

Roll Call:

Aye: Asay, Bianchi, Coelho, Damurjian, Hurley, McNally, Piedici, Surano, Zaidel  
 Nay: NONE  
 Ineligible: NONE

Motion carried.

Mr. Damurjian moved that the Board recommend to the Township Committee that the 280 dwelling unit cap be reduced to 180. Mr. Banisch opined that if the number of total units was lowered, the number of affordable housing units would fall below 62 which was the number required by the Township and Mr. Drill advised that such a revision would violate the settlement agreement. The motion did not receive a second and therefore, failed.

Mr. Surano moved that proposed Ordinance #2405 be deemed *not inconsistent* with the Master Plan. Second by Dr. Coelho.

Roll Call:

Aye: Asay, Bianchi, Coelho, Damurjian, Hurley, McNally, Piedici, Surano, Zaidel

Nay: NONE

Ineligible: NONE

Motion carried.

**EXECUTIVE SESSION**

Chairwoman Piedici announced that due to the late hour, the Executive Session scheduled for this evening would be rescheduled for the October 2, 2018 meeting.

**COMMENTS FROM STAFF**- None

**COMMENTS FROM BOARD MEMBERS**

Chairwoman Piedici cancelled the September 18, 2018 meeting because it fell on the Jewish holiday of Yom Kippur.

**ADJOURN**

On motion by Dr. Coelho, seconded by Ms. Asay, all in favor and carried, the meeting was adjourned at 9:59 PM.

Respectfully submitted,

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Cyndi Kiefer, Secretary  
Township of Bernards  
Planning Board