

BERNARDS TOWNSHIP

PLANNING BOARD

MINUTES v2
Regular Meeting
July 7, 2020

Vice Chairman Hurley called the meeting to order at 7:35 PM.

FLAG SALUTE

OPEN PUBLIC MEETING STATEMENT

Vice Chairman Hurley 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, Whippany, NJ, and to the Courier News, Bridgewater, NJ, on January 8, 2020; and was electronically mailed to those people who have requested individual notice.

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, *Crane, Damurjian, *Esposito, Hurley, McNally, Manduke
Members Absent: Harris, Mastrangelo, Piedici, Zaidel
Also Present: Board Attorney, Jonathan E. Drill, Esq.; Township Planner, David Schley, PP, AICP;
Board Planner, David Banisch, PP, AICP; Board Secretary, Cyndi Kiefer

*Present via Telephone

Moved by Ms. Asay, seconded by Mr. Damurjian, all in favor and carried, that the absences of Committeewoman Harris, Ms. Mastrangelo, Chairwoman Piedici and Mr. Zaidel be excused.

APPROVAL OF MINUTES

March 3, 2020 – Closed Session - On motion made by Ms. Asay and seconded by Mr. McNally, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Esposito, Manduke

[May 5, 2020 – Regular Session \(virtual\)](#) - On motion made by Mr. McNally and seconded by Mr. Damurjian, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Asay, Manduke

[June 2, 2020 – Regular Session \(virtual\)](#) - On motion made by Ms. Asay and seconded by Mr. McNally, all eligible in favor and carried, the minutes were adopted as drafted.

PUBLIC HEARING

[Emerald Valley Homeowners Association Inc.;](#) Block 11401, Lots 37.01 & 42; 16 Harvest Way/181 Mountain Road;
Amended Preliminary/Final Major Subdivision, Modification of Condition; PB20-001

Present: Frederick B. Zelley, Esq., Attorney for the Applicant Corporation
John G. Leitch, Acting President of the Applicant Corporation

Frederick B. Zelley, Esq., attorney with *Bisogno, Loeffler & Zelley LLC*, Basking Ridge, NJ, entered his appearance on behalf of the Applicant who is seeking to modify Condition #12 of the resolution of approval for Preliminary Major Subdivision dated February 4, 2000 by relieving the Applicant of its responsibility to maintain an emergency access roadway to service the bulb of the cul-de-sac. The initial subdivision necessitated a modification because Emerald Valley Lane does not conform to the Township's ordinance standard for maximum permitted *length* of a cul-de-sac, even though it does conform to the Residential Site Improvement

Standards (RSIS), which are based on average daily traffic. This maintenance requirement is included in the subsequent final approvals in 2002 for the subdivision.

Mr. Zelley advised that in 2003, the New Jersey Department of Community Affairs issued RSIS Clarification #4 which states that any attempt by a municipality to impose a length limitation on cul-de-sacs has been superseded by RSIS and is unenforceable. The Applicant now seeks a modification of Condition #12 because in the original subdivision approval, there should not have been a requirement to provide an access road to mitigate the relief needed from the Township's length limit since that limit is unenforceable.

John G. Leitch, acting President of the Emerald Valley Homeowners Association Inc. and residing at 122 Emerald Valley Lane, was duly sworn. He advised the Board that the development had been managed by an off-site management company who, among other things, maintained the emergency access road and charged the costs back to the homeowners. The community decided late last year to eliminate that company and to handle the management duties themselves. He testified that the biggest financial burden is the emergency access road because of the cost of maintenance and insurance for liability.

Mr. Zelley noted that the Liberty Corner Fire Company and the Liberty Corner First Aid Squad had not voiced any concerns about the application request and Mr. Leitch testified that he had never seen an emergency vehicle use the emergency access road.

A discussion ensued as to whether the Applicant is requesting relief from maintaining the emergency access road or requesting to eliminate it altogether. Mr. Drill stated that since the developer was granted an easement from the Township for the access road, it would be up to the Township Committee to vacate the easement. Mr. Drill suggested that the Applicant request that the Board modify the condition and recommend to the Township Committee that the easement be vacated. A discussion ensued about whether or not the access road should be maintained in some fashion if the easement is vacated. A straw poll indicated that the Board was in favor of leaving the gravel on the road and allowing the road to grow over naturally.

Mr. Crane recused himself from participating in the hearing because he had contributed to the review of the application as a member of the Environmental Commission.

The hearing was opened to the public for comment. Hearing none, that portion of the hearing was closed.

Mr. Zelley declined the opportunity to present a summation.

After deliberations, Ms. Manduke moved to grant the Applicant's request for Amended Preliminary/Final Subdivision by eliminating the requirement that the Applicant maintain an emergency access road, subject to the conditions stipulated to by the Applicant during testimony and as stated during deliberations. In addition, she moved that the Board recommend to the Township Committee that the easement requiring maintenance of the emergency access road be vacated, allowing the road to return to its natural state. Ms. Asay seconded.

Roll call:	Aye:	Asay, Damurjian, Esposito, Hurley, McNally, Manduke
	Nay:	NONE

Motion carried.

COMMENTS FROM STAFF OR BOARD MEMBERS - None

ADJOURN

Ms. Asay moved, Ms. Manduke seconded, all in favor and carried, and the meeting was adjourned at 8:25 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Township of Bernards
Planning Board

Adopted as drafted 08/18/2020

07/27/2020 v2 dsjdgh