

BERNARDS TOWNSHIP

PLANNING BOARD

MINUTES

Regular Meeting
September 17, 2019

Chairwoman Piedici called the meeting to order at 7:35 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, Whippany, NJ, and to the Courier News, Bridgewater, NJ, on January 9, 2019; 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, Harris, Hurley, Mastrangelo, Piedici, Zaidel
Members Absent: Coelho
Members Late: McNally (7:42 PM)
Also Present: Board Attorney, Jonathan E. Drill, Esq.; Township Planner, David Schley, PP, AICP;
Board Planner, David Banisch, PP, AICP; Board Engineer, Cathleen Marcelli, PE;
Board Secretary, Cyndi Kiefer

Moved by Ms. Mastrangelo, seconded by Mr. Hurley, all in favor and carried, to excuse the absence of Dr. Coelho.

APPROVAL OF MINUTES

August 20, 2019 – Regular Session - On motion made by Mr. Hurley and seconded by Committeewoman Harris, all in favor and carried, the minutes were approved as drafted. Mr. Zaidel abstained.

Mr. Crane recused himself and left the room.

ORDINANCE REFERRAL

Ordinance #2427 – 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," Regarding the Multifamily Housing Overlay Zone within the B-5 Zone

Referring to his memo dated September 16, 2019 and titled "Master Plan Consistency Review – Ordinance #2427," Mr. Banisch explained that the proposed ordinance amends the zoning designation of Lot 44 in Block 8501 from P-1 (Public Purpose Zone) to B-5 (Village Center Zone). This will allow the owners of the adjacent property (Dewy Meadow Village) to acquire Lot 44 from the township and to use it for recreational purposes for the residents of the new inclusionary rental apartment complex being built on a portion of the Dewy Meadow property.

Mr. Banisch opined that the proposed ordinance is *not inconsistent* with the township's Master Plan because it implements zoning that is consistent with the Housing Plan Element and Fair Share Plan, which specifically identifies the Dewy Meadow project as one which shall address a portion of the township's affordable housing obligation.

Mr. Hurley moved that proposed Ordinance #2427 be deemed *not inconsistent* with the Master Plan. Second by Committeeman Esposito.

Roll Call: Aye: Asay, Damurjian, Esposito, Harris, Hurley, Mastrangelo, Piedici, Zaidel
Nay: NONE

Motion carried.

Mr. Crane returned to the room.

PUBLIC HEARING

Genesis Property Management LLC; Block 11201, Lot 4; 140 Allen Road; Preliminary/Final Site Plan, Bulk Variance; #PB19-002

Present: Nicole M. Magdziak, Esq., Attorney for the Applicant
Robert C. Moschello, PE, Engineer for the Applicant
Richard T. Scott, MD, Representative for the Applicant

Nicole M. Magdziak, Esq., attorney with the firm of *Day Pitney LLP*, Parsippany, NJ, entered her appearance on behalf of the applicant and gave a brief description of the site. She explained that the applicant proposes to install a 9,000-gallon above-ground storage tank to hold liquid nitrogen for use by the existing medical office facility and to relocate the dumpsters. Noting that the tank would be considered an accessory structure, Ms. Magdziak stated that relief was required for maximum height of an accessory structure, minimum side yard setback and minimum distance between a building and an accessory structure.

Committeeman Esposito, Mr. Damurjian, Mr. Crane and Chairwoman Piedici confirmed that they had visited the site and offered their observations.

All of the professionals for both the board and the applicant were duly sworn by Mr. Drill.

Robert C. Moschello, PE, engineer with *Gladstone Design Inc.*, Gladstone, NJ, was accepted by the board as an expert in the field of engineering. He entered into evidence as **Exhibit A-1**, an eight-page paper copy of a power point presentation and using an aerial photo from that presentation, he gave a brief historical overview of the site's ownership and development. The smaller, existing liquid nitrogen tank which is refilled almost daily, will be replaced by the 9,000-gallon tank, reducing the number of refills to only a few times each month.

Ms. Magdziak advised that the 9,000-gallon tank model proposed in the application may no longer be available. Because the newer model would be 29' in height instead of 26.75'; as previously specified, she asked to amend the relief requested. Mr. Drill stated that since the notice had listed the specific height, any approvals given could be challenged. Ms. Magdziak confirmed that the applicant would assume that risk.

Mr. Moschello testified that the dumpsters will be relocated within the K-turn area and that the new tank will be installed next to the loading dock where the dumpsters had been previously located. Since this is also near the old tank's location, the new tank will utilize the existing connections to the building. Mr. Moschello opined that the refuse trucks will not have any difficulty accessing the dumpsters in their new location and confirmed that both the tank and the dumpsters will be fenced as required with the appropriate signage posted on the tank fencing.

Addressing the visual impact of the height of the new tank, Mr. Moschello testified that because even the taller, alternate tank will be shorter than the building, the building itself would act as a visual screen. Noting that the new tank will be located on one of the lowest points on the site, he opined that the existing topography greatly reduced the visibility from the surrounding areas. He summarized that this is the reason the spot was chosen along with the ability to use existing connections and ease of delivery for trucks. He added that, from areas where the tank is visible, because of its white color, it will easily blend into the background. He confirmed that the tank will be partially located over an existing utility easement however he stated that other improvements had been installed on top of the easement without a problem and he didn't foresee any issues.

Mr. Crane entered two exhibits into evidence. **Exhibit B-1** consists of a photocopy of a portion of the vicinity plan (page 1 of 3, prepared by Gladstone Design Inc. dated 05/22/2019, last revised 06/28/2019) with lines labeled with letters drawn from the proposed location of the new tank to surrounding buildings and locations. The lines and approximate distances given were done by Mr. Crane. **Exhibit B-2** consists of a photocopy of a portion of the site

dimension and grading plan (page 2 of 3, prepared by Gladstone Design Inc. dated 05/22/2019, last revised 06/28/2019) with several topographic lines and elevations highlighted in yellow by Mr. Crane.

At Mr. Crane's request, for **Exhibit B-1**, Mr. Moschello estimated the distance for each of the lettered lines drawn and for **Exhibit B-2**, Mr. Moschello gave the elevations for the proposed new tank along with elevations at various highlighted points which illustrated how the topography of the site would substantially block the visibility of the tank.

In response to concerns raised, Mr. Moschello stated that he would confirm the depth of the footings for the tank's cement pad located in the easement with the power.

Mr. Crane suggested that the new tank be moved 13' to the west so that it would be located outside the utility easement adding that the tank would be even less visible from that location. Dr. Scott responded that relocation to that spot could generate safety issues because it would be much more difficult for the trucks to maneuver through the area in order to refill the tank. After a series of straw polls, the board asked the applicant to request approval from JCPL to install the tank over the easement. If no approval is given, the applicant would use the suggested alternate location. Mr. Drill advised that the alternate location required greater setback relief and because of the specific wording of the notice, any approvals given could be challenged. The applicant agreed to assume that risk.

Mr. Moschello confirmed that the applicant would comply with all the comments in the board professionals' memos.

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

Dr. Richard T. Scott, representative for the applicant, testified that the new tank would dramatically reduce the number of liquid nitrogen deliveries and during power outages, the increased capacity would keep the embryos safer, longer.

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

Ms. Magdziak summarized the relief required for the application, stating that the testimony provided satisfied both the positive and negative criteria for c-1 "hardship" variances.

After deliberating, Mr. Zaidel moved to grant the variance relief requested and to approve the preliminary and final site plan application subject to the conditions stipulated to by the applicant during testimony and as stated during deliberations. Mr. McNally seconded.

Roll call:	Aye:	Asay, Crane, Damurjian, Esposito, Harris, Hurley, McNally, Piedici, Zaidel
	Nay:	NONE

Motion carried.

* * * *The Open Session was recessed at 9:02 PM and reconvened at 9:10 PM.* * * *

Mr. Crane and Mr. Zaidel recused themselves and left the room.

PUBLIC HEARING

Mountainview Corporate Center LLC; Block 11301, Lots 1 & 5; Mountain View Boulevard; Preliminary/Final Major Site Plan, Preliminary/Final Major Subdivision, Bulk Variances; #PB19-003

Present:	Thomas J. Malman, Esq., Attorney for the Applicant
	Ronald A. Kennedy, PE, Engineer for the Applicant
	Stuart A. Johnson, AIA, Architect for the Applicant
	Thomas S. Carman, LA, Landscape Architect for the Applicant
	Gary W. Dean, PE, Traffic Engineer for the Applicant

After giving a brief description of the hearing process, Chairwoman Piedici asked if that there were any attorneys present who were representing members of the public and there were none.

Thomas J. Malman, Esq., attorney with the firm of *Day Pitney LLP*, Parsippany, NJ, entered his appearance on behalf of the applicant. He stated that the applicant proposes to build an inclusionary development on the above referenced property as part of the township's Fair Share Housing Agreement. The project consists of a total of 280 units: 220 rental apartments (including 62 affordable units) and 60 townhouses which will be sold at market rate. Mr. Malman noted that although the property had been recently rezoned MH-1 (Multifamily Housing Zone) to allow for this type of development, the previous approvals granted for an office building complex development were still valid. Finally, in response to meetings held with the neighbors, an exhibit showing views of the proposed residential development from their homes would be supplied at a later date.

Chairwoman Piedici, Mr. Damurjian and Mr. Hurley stated that they had visited the site and offered their observations.

All of the professionals for both the board and the applicant were duly sworn by Mr. Drill.

Ronald A. Kennedy, PE, president of *Gladstone Design Inc.*, Gladstone, NJ, was accepted by the board as an expert in the field of engineering. He entered a paper copy of a power point presentation entitled, "The Residences at Mountain View" into evidence as **Exhibit A-1** and gave a brief history of the entire property's development. He stated that the development of these two lots (Lot 1 and 5), the subjects of this application, was the last phase of this multi-phase project. Finally, he described the topography of Lots 1 and 5.

Mr. Kennedy showed a rendering of the site with the previously approved office buildings and parking areas. He stated that the proposed residential development was designed using a substantially similar area of disturbance with three (3) interconnected multifamily buildings and a clubhouse on the north side and 60 townhouses towards the south. He added that the extensive buffering including fencing, berms, walls and vegetation shown on the office rendering has been mimicked and enhanced on the residential plans.

Mr. Kennedy testified that the buildings conform to the township's height ordinances and that the project layout conforms to the Residential Site Improvement Standards (RSIS) relative to streets and parking.

A discussion ensued as to the number of loading spaces required. Mr. Schley stated that since the apartment buildings and clubhouse were all connected, they were considered to be one (1) building for zoning purposes. Mr. Drill asked for additional information on how that determination would affect the number of loading spaces.

Mr. Kennedy cited two (2) different forms of ownership as the reason for subdividing Lot 1 into two (2) separate lots: one for the townhouses which would be individually owned and the other for the apartments which would be owned by a single entity. Mr. Schley stated that the MH-1 Zone allows for subdivision by right (for certain procedural reasons such as those outlined by Mr. Kennedy) as long as the pre-subdivision lot complies with the applicable zoning requirements.

Mr. Kennedy testified that even though the buffering had been enhanced to provide more screening, there are still "holes" predominantly on the southeast side and where the emergency access road enters the townhouse portion of the development. The berms could be further enlarged however that would require more relief for tree removal and more steep slope disturbance. The area screening Pacer Court to the north is not large enough for berms so that screening is being addressed with vegetation.

Noting the time, Chairwoman Piedici asked that Mr. Kennedy continue his testimony at the next available meeting. Mr. Drill announced that the application would be carried *with no further notice* to the October 22, 2019 meeting.

After a brief discussion, a site visit was arranged for Saturday, October 5, 2019 at 9:00 AM with a rain date set for Sunday, October 6, 2019, 9:00 AM. The Open Public Meetings Act notification will be provided by Ms. Kiefer.

COMMENTS FROM STAFF

Ms. Kiefer asked that any member who had not responded with his or her statement of interest in serving on the board next year, please do so as soon as possible.

COMMENTS FROM BOARD MEMBERS - None

ADJOURN

On motion by Ms. Mastrangelo, seconded by Committeeman Esposito, all in favor and carried, the meeting was adjourned at 10:20 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Township of Bernards
Planning Board

Approved as written 10-08-2019

09/24/19v2 dskpjd