

# **TOWNSHIP OF BERNARDS**

## **PLANNING BOARD**

### **MINUTES v3 REGULAR SESSION**

August 2, 2022

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

#### **FLAG SALUTE**

Chairwoman Piedici read the following open meeting and procedural statements:

#### **OPEN MEETING STATEMENT**

"In accordance with the requirements of the Open Public Meetings Law of 1975, notice of this 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 mailed to the Bernardsville News, Whippany, and to the Courier News, Bridgewater on January 19, 2022 and was mailed to all 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 p.m. and no new witnesses or testimony heard after 10:30 p.m."

#### **ROLL CALL**

Members Present: Baumann, Crane, Damurjian, Eorio, Mallach, Mastrangelo, Piedici  
Members Absent: Ladyzinski, McNally, Manduke, Seville  
Also Present: Board Attorney, Joseph C. Tauriello, Esq.; Township Planner, David Schley, PP, AICP;  
Board Planner, David Banisch, PP, AICP; Board Engineer, Larry Plevier, PP, CME;  
Board Secretary, Cyndi Kiefer

Moved by Ms. Mastrangelo, seconded by Mr. Crane, all eligible in favor and carried, that the absences of Mr. Ladyzinski, Deputy Mayor McNally, Ms. Manduke and Mr. Seville be excused.

#### **APPROVAL OF MINUTES**

June 7, 2022 – Regular Session - On motion made by Mr. Damurjian and seconded by Mr. Baumann, all eligible in favor and carried, the minutes were adopted as drafted. (Ineligible: Crane)

June 21, 2022 – Regular Session - On motion made by Mr. Damurjian and seconded by Mr. Mallach, all eligible in favor and carried, the minutes were adopted as drafted. (Ineligible: Baumann)

#### **HEARING** – Modification of Condition of Approval

Fenwick Basking Ridge Homeowners Association Inc.; Block 7702, Lots 10.01-10.05; 3, 6, 7 10, 11 Fenwick Place; Modification to allow certain items in an existing easement (PB11-011); PB22-002

Present: Michael Silbert, Esq., Attorney for the Applicant  
Brian Krawitz, President, Fenwick Basking Ridge HOA, Inc.

Michael Silbert, Esq., attorney with the firm of *DeFrancesco Bateman PC*, Warren, NJ, entered his appearance on behalf of the Applicant. He stated that the Applicant was seeking to modify a condition of the 2016 Planning Board approval which prohibits fences and irrigation systems within a tree conservation easement located on the five (5) single-family lots.

Mr. Krawitz, Mr. Plevier, Mr. Banisch and Mr. Schley were duly sworn.

Mr. Crane and Ms. Mastrangelo advised that they had visited the site and shared their observations. It was also noted that Mr. Baumann, Mr. Damurjian and Chairwoman Piedici had visited the site previously as members of the Landscape Committee.

Brian Krawitz, owner of 11 Fenwick Place and president of the Fenwick Basking Ridge Homeowners Association, Inc. testified that as a condition of the subdivision's 2016 preliminary subdivision approval, a 25' wide tree preservation easement was established along the rear of each of the five (5) lots where those lots adjoin existing residential lots, as a means of minimizing the impact of the new development on the existing neighborhoods. Each of the five (5) property owners is required to perpetually maintain and replace as necessary, all the newly planted and pre-existing trees within the easement on each owner's respective lot. No fences or irrigation systems are allowed within the easement. He stated that if a homeowner chose to erect a fence in the rear yard of his property, it would have to be in front of the easement making maintenance of the trees in the buffer difficult and added that, without irrigation systems in the easement, watering the newly planted trees would be impossible. He proposed that a dark open fence along backside of the easement (rear property line) be permitted so that each homeowner could have complete access to the easement for maintenance purposes. He testified that currently, a solid white fence could be erected in front of the easement and since all the dead trees have now been removed from the buffer, that fence would be much more visible to the surrounding neighborhoods than the fence he proposed. Finally, he reiterated that the sole driver of this request was maintenance of the trees in the easement.

Chairwoman Piedici stated that she was on the Board when the original application was heard and approved. She noted that there was a significant amount of concern voiced by the residents of the surrounding neighborhoods about the negative visual impact the development would have on their properties.

Mr. Crane concurred that fencing in front of the easement would restrict the ability to care for the trees and that, not only would fencing on the rear property line (back side of the easement) allow for additional landscaping where the "white solid fencing" would otherwise be situated but would also allow for more enjoyment of the rear yard. Finally, he felt that the dark open fence would blend in with the trees and be less visually obtrusive and opined that the new trees would grow quickly and create a solid wall of evergreens thus preventing homeowners from encroaching into the easement to enlarge their back yards.

A straw poll of the Board indicated that there was no need for easement markers since the growth of the evergreens would make the easement self-limiting shortly.

Mr. Krawitz testified that in addition to speaking to some of the residents in the surrounding neighborhoods, a notice had been served to all those within 200 feet of the five (5) properties in the subdivision.

A straw poll was conducted and the Board was unanimously in favor of allowing fences along the rear and side property lines within the easement with the following conditions: the fence must be constructed of black aluminum material, located 6" from the property lines, minimum of 50% open, maximum of 6' high and pool code compliant. Discretion would be given to the Township Engineer for an alteration to the fence position if there is a tree in the required 6" location. Mr. Krawitz agreed with those conditions and stated that the request to allow irrigation systems in the easement would be withdrawn if the Board allowed fences as discussed. Mr. Tauriello suggested that if approved, it should be incorporated into the homeowners association documents.

A straw poll of the Board indicated that the type and location of fencing outside of the easement should be defined by the current ordinances.

Mr. Krawitz stipulated to all the comments in Mr. Schley's memo (07/12/2022), Mr. Banisch's memo (08/01/2022) and the Environmental Commission's memo (07/26/2022).

The hearing was opened to the public for questions. Edward D. Elian, residing at 42 Wedgewood Drive, asked if the fences would be contiguous across all five (5) lots. Mr. Krawitz responded that they would not and that because the fences would be constructed of aluminum, deterioration would not become an issue.

Hearing no further questions, the hearing was closed and reopened for public comment. Hearing none, that portion of the hearing was closed.

After deliberations, Mr. Damurjian moved to grant approval to modify the condition of the 2016 approval which prohibited fences in a tree conservation area and to recommend to the Township Committee that the tree conservation easement be modified accordingly, as requested by the Applicant, subject to the conditions stipulated to during testimony by the Applicant and as stated during deliberations. Mr. Eorio seconded.

Roll Call: Aye: Baumann, Crane, Damurjian, Eorio, Mallach, Mastrangelo, Piedici  
Nay: NONE

Motion carried.

\* \* \* *The Open Session was recessed at 8:56 PM and reconvened at 9:04 PM.* \* \* \*

Mr. Crane recused himself from participating in the following hearing.

### **PUBLIC HEARING**

United States Golf Association; Block 9601, Lot 5.01; 77 Liberty Corner Road; Amended Preliminary/Final Site Plan Approval, Bulk Variance; PB22-003

Present: Thomas J. Malman, Esq., Attorney for the Applicant  
Robert C. Moschello, PE, Engineer for the Applicant

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 was seeking to amend the Phase 2 permanent parking layout which was approved in 2017 when the Applicant applied for Preliminary and Final Site Plan approval for expansion of the administration building and parking facilities.

Mr. Moschello, Mr. Plevier, Mr. Banisch and Mr. Schley were duly sworn.

Mr. Damurjian and Mr. Baumann shared their observations about the site.

**Exhibit A-1**, a 26-page paper copy of a power point presentation entitled, "USGA Headquarters" and prepared by Gladstone Design Inc. was entered into evidence.

Robert C. Moschello, PE, engineer with the firm of *Gladstone Design Inc.*, Gladstone, NJ, was accepted by the Board as an expert in the field of civil engineering. Using **Exhibit A-1**, he gave an overview of the subject property's ownership and development and stated that in the amended Preliminary and Final Site Plan approval (2017), parking improvements associated with the administration building expansion were to be constructed in two (2) phases. Phase 1 included construction of a now-completed "interim" parking layout, to be used temporarily until the permanent parking layout is constructed in Phase 2. This application sought to amend the Phase 2 parking layout.

Mr. Moschello testified that the scope of the parking layout and interior driveway changes approved in 2017 has been decreased in this application. The total number of parking stalls has been reduced because post-Covid, more employees are working virtually rather than coming into the office. The curves in the entrance driveway will be smoothed and lined with trees to project a more gracious entrance to the facility. That realignment triggers a setback variance on a small corner of Lot 8 (also owned by the USGA) however, Mr. Moschello opined that in addition to the installation of curbing along the driveway, the realignment will provide safer access for the public and for delivery trucks.

Mr. Moschello addressed the comments in the memos submitted by Mr. Schley (07/27/2022), Mr. Banisch (08/01/2022), Mr. Plevier (07/29/2022), the Environmental Commission (07/26/2022) and the Somerset County Planning Board (07/12/2022) to the satisfaction of the Board. The Liberty Corner First Aid Squad and the Bernards Township Fire Prevention Bureau had no comments on the application.

The hearing was opened to the public for questions or comments. Shawn F. Lynch, residing at 56 Liberty Corner Road, expressed concerned about large dead trees along Liberty Corner Road. Mr. Moschello stated that he believed that they are located along the front of the adjoining property (Lot 4.03), not on USGA's property.

Todd Edelstein, residing at 172 Riverside Drive, was given confirmation that the proposed plan would reduce impervious coverage. Hearing no further questions or comments, that portion of the hearing was closed.

Mr. Malman opined that the testimony given by Mr. Moschello satisfied the statutory requirements to allow the Board to grant the requested variance relief under "c(2)" or "benefits outweigh detriments" criteria.

After deliberations, Mr. Baumann moved to grant the application for Amended Preliminary/Final Site Plan and variance relief as requested by the Applicant subject to the conditions stipulated to during testimony by the Applicant and as stated during deliberations. Ms. Mastrangelo seconded.

Roll Call: Aye: Baumann, Damurjian, Eorio, Mallach, Mastrangelo, Piedici  
Nay: NONE

Motion carried.

**COMMENTS FROM MEMBERS AND STAFF**

Mr. Banisch advised the Board that he would be presenting final drafts of several Master Plan elements at the 08/16/2022 meeting.

**ADJOURN**

Moved by Ms. Mastrangelo, seconded by Mr. Damurjian, all eligible in favor and carried, the meeting was adjourned at 9:44 PM.

Respectfully submitted,

*Cyndi Kiefer*

Cyndi Kiefer, Secretary  
Planning Board

*Adopted as revised 08/16/2022*

08/09/2022 dsjdkp