

REGULAR MEETING of the Moonachie Planning Board called to order, J. Molinari in the chair, at Kathryn E. Flynn Civic Center on Thursday, December 17, 2015 at 7:12 P.M. J. Molinari called for Pledge of Allegiance to the Flag.

ROLL CALL: Mayor Vaccaro-present, C/Surak-not present,
J. Molinari, N. Derevyanik- present
M. Sartori, J. Campbell, V. Drozd-present,
D. Dressel-not present, J. Telesmanic - present
Alternates – M. Meehan – present
R. Petrella, C. Pallas – not present
Attorney- J. Novello (present R. Cedzidlo) –present
Engineer- not present

Secretary stated that notice of the meeting was announced in accordance with the Open Public Meeting Act.

Motion by Mr. Telesmanic and second by Mr. Campbell to adopt the Planning Board (previous Board) minutes of the Regular Meeting of April 17, 2014 (No meeting May thru December).

ROLL CALL: Mayor Vaccaro, - ayes, Molinari-, Derevyanik- abstain,
Sartori, Campbell- ayes, Drozd-abstain, Telesmanic- ayes, Meehan –abstain
Four ayes and four abstain. So ordered.

Motion by Mr. Campbell and second by Mr. Sartori to adopt the minutes of the Regular Meeting of January 15, 2015.

ROLL CALL: Mayor Vaccaro-ayes, Molinari, Derevyanik- abstain,
Sartori, Campbell – ayes, Drozd, Telesmanic, Meehan - abstain
Three ayes and five abstain. So ordered.

COMMUNICATIONS:

New Jersey Meadowlands Commission (NJSEA) – notice of Bulk Variance application for Bucciarelli/Bylada Foods, 140 West Commercial Avenue, Block 60, Lot 8, in the Borough of Moonachie.

Boswell Engineering – letter regarding assignment of lots 8.01 and 9.01 to Block 70 for Minor Subdivision and Variance for Jaret LLC.

Bergen County Department of Planning and Economic Development- Letter regarding Site Development at Block 62, Lots 4, 4.04, 5.02, 5.04 and 6.01 for Site Plan review.

TRC Environmental, LLC – notice of Flood Hazard Area Individual Permit submittal to NJDEP for PSEG Fossil LLC, for PSE&G Bergen Generating Station, in the Borough of Ridgely.

Avalon Bay Communities – letter regarding interest in inclusionary Development of Affordable Housing.

Neglia Engineering – notice of an application for a flood hazard area verification submittal to NJDEP for 205 Bergen Turnpike and 9 Lakeview Avenue, Block 11, Lots 1 & 75, in the Borough of Little Ferry.

Hatch Mott MacDonald – notice of Individual Flood Hazard Permit submittal to NJDEP for Wood-Ridge DPW Yard Improvements, Blocks 253 & 229 Lots 1 & 4, in the Borough of Wood-Ridge.

Lapatka Associates, Inc. – notice of Flood Hazard Area Verification, Individual Permit and Extension of Waterfront Development Permit and Water Quality Certificate submittal to NJDEP for Former Sumitomo Site, Block 202, Lot 2, in the Borough of Teterboro.

Bergen County Soil Conservation District – notice of application for Soil Erosion and Sediment Control Plan Certification for General Mills Operations, LLC, 7 Capital Drive, Block 31, Lots 1 & 2 in the Borough of Moonachie and Block 106, Lot 12 in the Borough of Little Ferry.

Anthony Castillo, PE, SESI Consultants Engineers – notification of Individual Flood Hazard Area Permit submittal to NJDEP for Proposed Driving School, 106 Moonachie

Avenue, Block 62 Lots 4, 4.04, 5.02, 5.03, 5.04, 6.01 and 6.03, in the Borough of Moonachie.

New Jersey Sports and Exposition Authority – notice of public hearing for Alfaro Property Management LLC, 106 Moonachie Avenue, Block 62 Lots 4, 4.04, 5.02, 5.03, 5.04 6.01 and 6.03, in the Borough of Moonachie.

Dewberry Engineers Inc.– Notice of Flood Hazard Area Verification Permit submittal to NJDEP for Calandra Enterprises Inc. dba Hampton Inn, Carlstadt, Block 124, Lots 7, 8, 9 and 10 in the Borough of Carlstadt.

Dynamic Engineering – notice of Waterfront Development Permit submittal to NJDEP for Bridge Wood-Ridge LLC, Block 229.02, Lot 4 in the Borough of Wood-Ridge and Black 84, Lot 5 in the Borough of Carlstadt.

Richard Kaplan, Attorney- explanation for subdivision of Block 70, Lots 8 & 9 and requesting signature for the subdivision plot.

Lisa Calderon – Application for Variance for Block 42.01 Lot 4, 46 Diamond Way.

Mayor Vaccaro spoke about the application for 106 Moonachie Avenue, for driving school. He mentioned that the governing body sent a letter of concern to NJSEA regarding the location is next to a residential area and the potential of flooding due to East Riser Ditch, requesting about the hours of operation, sound barrier and retention basin in the driveway.

Motion by Mayor Vaccaro and second by Ms. Drozd to file communications.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyanik, Sartori, Campbell, Drozd, Telesmanic, Meehan.

All ayes. So ordered.

REPORTS:

None

OLD BUSINESS: None

NEW BUSINESS:

DOCKET #15-V1 Lisa Calderon, Block 42.01, Lot 4, 46 Diamond Way.

Lisa Calderon, 46 Diamond Way -was sworn in by Attorney Novello.

Mr. Sartori recused himself due to being the Construction Official and had brought this action to the Planning Board.

Mr. Campbell recused himself due to residing within 200' of the subject property.

Ms. Calderon stated that there was originally a chain link fence, in December 2014 she applied for a permit and in May the fencing company came to put the fence. She stated that it is 4' vinyl fencing with caps on the top. She mentioned that the property is on a slope, and the fencing company discussed about running the fence straight across. She was told by the company that there were no zoning issues. She put up another fence on the side by her driveway, and was told by the company that she did not need another permit for that because it is part of the other job. She mentioned that in the end of August, she received a violation notice from the building Department for the height of the fence.

Mrs. Molinari asked who the fencing company was.

Ms. Calderon stated Wayside Fencing.

Mrs. Molinari asked for the date of the permit application.

Ms. Calderon answered that she applied for the permit in December but the Company came in May 2015.

Mr. Derevyanik clarified what happened when the fence was built.

Ms. Calderon stated that she believed that the fence would have to be dropped but the installer said that it would look better straight line and she asked him if there would be a problem, she was told no. She explained that the fence was install in straight line instead of sloping at one side.

Mrs. Molinari asked if soil was added.

Ms. Calderon stated that the year before she put the soil mounds in when the chain link fence was still there, that fence was behind the trees and she put soil around the tree.

Mrs. Molinari confirmed that the new fence is in front of the trees.

Ms. Calderon stated that the fending company said it would be better to have fence in front of the trees for more yard space.

Mr. Derevyanik reviewed the before and after picture of the fence with Ms. Calerdon.

Ms. Drozd stated that she drove past the property, and asked about the position of the fence and the problem in terms of the code. She asked whether the fence is higher due to the dirt. Ms. Calderon explained that the problems are that the dirt is higher so the line of the fence in certain areas is it higher off of the ground. Also, she explained that in front her property slopes down so the fence is higher in certain areas.

Ms. Drozd mentioned that there was a picture where Mrs. Calderon's neighbor's fence was higher than hers.

The members of the Board reviewed the pictures with the applicant.

Ms. Drozd asked Ms. Calderon about the height of her fence and her neighbor's fence.

Mayor Vaccaro suggested having the as built survey done for the fence to see ten feet setback for the owner protection because he is not sure whether a survey required for the building department or by the Board.

Ms. Calderon stated that she may have a copy of the survey, which is from the time she purchased the house.

Ms. Drozd reviewed the color picture of the fence to compare the height of neighbor fence and mentioned that the neighbor fence is higher than Ms. Calderon's fence.

Mr. Sartori mentioned that the property has to be resurvey to show the setback.

Mr. Telesmanic asked about the 10' setback.

Mr. Sartori explained how the setback is determined.

Mr. Telesmanic stated that the issue was that 4' fencing is allowed in the front of the yard, and the variance is for 5'.

Mr. Sartori stated the fence is at 5' at the front, and it was not installed on the natural grade.

Attorney Novello asked Mr. Sartori to explain the height of the neighbor's fence.

Mr. Sartori explained that the neighbor is a corner lot facing Jubilee Place, not Diamond Way, so it is actually a rear yard fence, which is allowed to be 6' in height.

Mrs. Molinari confirmed that the neighbor's fence is at the rear yard.

Ms. Drozd confirmed that the address of the neighbor is jubilee and the height of fence at the side.

Mrs. Molinari mentioned that the neighbor's fence is on the grade.

Attorney Novello mentioned that surveys are usually done with subdivision application.

PUBLIC HEARING FOR DOCKET #15-V1:

Barbra Morales, 43 Diamond Way- was sworn in by Attorney Novello.

Mrs. Morales stated that she had contacted the town when the fence was installed in May that the fence was being moved and was going to be higher than 4'. Mrs. Morales stated that the owners were told that she could not put a fence higher than 4' in the front yard and received a permit for the 4' fence but when the company came, they brought 8' poles, to put the 4' fence panels in the ground, and put in the mounds of dirt. Mrs. Morales mentioned that she had emails from June stating Ms. Calderon was going to receive a court summons and Ms. Calderon did not come to court in September, and Mrs. Morales was told Ms. Calderon would have another court date in October.

Mrs. Morales stated that in August, Ms. Calderon put fencing on another side of the yard at the same height. She felt that people apply for permit, they do what they want and come for variance. She showed pictures of fencing installed in August. Also, Mrs. Morales stated that the house is currently up for sale.

Jorge Morales, 43 Diamond Way -was sworn in by Attorney Novello.

Mr. Morales stated that the violation of the ordinance in this project was intentional and that this kind of work sets a bad precedent and it does not seem that the fence is 10' from the curb.

Ms. Calderon stated that she never applied for an 8' fence, the permit was apply for 4 feet fence. She mentioned that when she first bought the house, she spoke to the Building Department for the fence and had her survey, she never intended to put up an 8' fence. Ms. Calderon stated that the fencing company cut the fencing, and was not sure how high the poles originally were. Also, Ms. Calderon mentioned that she did not add dirt after the fence went up; she did put mulch around her property, which was rearranged.

Mayor Vaccaro asked whether Ms. Calderon wanted the fence in front of the trees when she went for the permit.

Ms. Calderon stated she just brought the drawing to the Building Department that the fencing company created.

Ms. Morales provided picture to the Board for the fencing & the poles and explained that the dirt was bought after the fence was installed.

Mr. Morales stated that dirt was brought in to build up underneath the fence.

Mr. Sartori explained that there are exhibits at the municipal court, one prior picture is from Google Earth from 2013 and one is a picture that he took now.

Ms. Drozd explained that the fence is now in front of the trees and now we cannot confirm the 10' setback.

Motion by Mr. Derevyanyk, second by Mrs. Drozd to close public hearing.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyanyk, Drozd, Telesmanic, Meehan - aye
Sartori, Campbell- abstain.

Six ayes and two abstain. So ordered.

Mayor Vaccaro asked the Construction Official Mr. Sartori for the height between the grass and bottom of the fence.

Mr. Sartori stated that it varies, and it could be between 1'-1.5', and the fence is 4' high.

Mayor Vaccaro mentioned spoke about his concern the distance from the curb. He mentioned if there is work done on the Utility and there is damage to the fence, then who would be responsible for repairs.

Mr. Sartori mentioned that if the Board does approve the variance, the Board can set conditions such as requiring a survey to be done.

Mayor Vaccaro asked Attorney whether we can find out the elevation and setback for the property.

Attorney Novello answered yes.

The members of the Board reviewed exhibits of the court.

Mrs. Molinari stated that the Board would want a current survey and the elevation.

Mr. Derevyanyk stated that we have a part-time building inspector and the work does get done in town without requirements being met the code. He saw a shade being put up and a fence being moved back but he is not going to be the bad person to complain.

Mrs. Morales- mentioned that she does not appreciate the comment.

Mr. Sartori stated that getting a survey and elevation costs thousands of dollars, and if it does not meet the Boards requirements it would have to be moved.

Mayor Vaccaro spoke about the cost for the survey and the cost for lowering the fence if the Board could deny the application.

Mr. Meehan mentioned that the compromise will be lowered the fence

Mr. Sartori stated that the fence is currently in violation, it being higher than the 4 feet.

Attorney Novello mentioned that the variance is from 4 feet height of the fence on the natural grade, and spoke about Mayor's suggestion for protecting the home owner in the future because it is possible that there may be another complaint regarding the setback.

Mrs. Molinari stated that a solution would be to drop the fence down to the natural grade.

Attorney Novello stated that the homeowner received wrong guidance from the fence company.

Ms. Drozd stated that if there is an issue with the setback and asked whether the board is going to ignore that.

Attorney Novello stated that now the homeowner is aware that there may be an issue with the setback and it is just that the variance is in front of the board for the fence height, not for the variance for setback.

Mayor Vaccaro stated that these issues could be brought up when the house is sold. He has no problem if the fence is lowered to the required height.

Attorney Novello stated the Board can approve or deny the variance, or they can carry it to the next meeting to see if the fence is dropped.

Mayor Vaccaro stated that we should have a time when the fence should be in compliance, possibly 60-90 days, due to weather.

Mr. Telesmanic mentioned that the fence could be lowered to four feet.

The members of the Board discussed making a motion to lower the fence at the natural grade in compliance within a certain amount of days.

Mr. Sartori left the meeting at 8:13 PM

Ms. Drozd stated that if the Board gives the homeowner 90 days for the fence to be in compliance, we should make sure that a survey is done, because there may be another violation.

Mr. Telesmanic asked about determining setback, and how the town would know where it is.

Mayor Vaccaro stated that the homeowner would get a surveyor to determine the setback.

Attorney Novello stated that the Board is conditions for a denial but there cannot be conditions on a denial. He mentioned that it seems that the Board wants the homeowner to

place the fence back at 4', which is a denial of the application, and then the Construction Official will continue the process in Municipal Court. He advised that the Board can approve the application, with conditions regarding the setback, but if the Board denies the application, then the homeowner would have to lower the fence to 4' in conformity.

Motion by Mr. Derevyaniuk to accept the application with conditions regarding lowering height of the fence.

Motion not carried.

Mr. Meehan mentioned that we can warn the owner about the survey.

Attorney Novello stated that variance before the Planning Board is in regard to the height of the fence.

Motion by Mrs. Molinari and second by Mr. Telesmanic to deny the application of Docket#15-V1.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyaniuk-ayes, Campbell-abstain,
Drozd, Telesmanic, Meehan - ayes

Six Ayes and one abstain. So ordered.

Mrs. Molinari stated that it would be best to get a survey for the property to determine the setback.

Motion by Mayor Vaccaro, second by Mr. Telesmanic to approve Resolution#2015- 3
RESOLUTION#2015-3

BE IT RESOLVED by the PLANNING BOARD OF THE BOROUGH OF MOONACHIE that the Chairperson be and is hereby authorized to sign the subdivision (subdivision was approved by NJSEA) plot for Block 70, Lot 8 & 9.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyaniuk, Campbell, Drozd, Telesmanic, Meehan.

All ayes. So ordered.

Motion by Mr. Derevyaniuk, second by Mrs. Molinari to approve Resolution#2015-4

RESOLUTION#2015-4

BE IT RESOLVED by the Mayor and Council of the Borough of Moonachie that the Reorganization Meeting of the Moonachie Planning Board for the year 2016 will be held on Thursday, January 7th, 2016 at 7:00 P.M. and Formal action will be taken.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyaniuk, Campbell, Drozd, Telesmanic, Meehan.

All ayes. So ordered.

PUBLIC HEARING:

No one wishing to be heard.

Motion by Mayor Vaccaro and second by Mr. Telesmanic to close public hearing.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyaniuk, Campbell, Drozd, Telesmanic, Meehan.

All ayes. So ordered.

Motion by Mr. Telesmanic and second by N. Derevyaniuk to adjourn meeting at 8:21 P.M.

ROLL CALL: Mayor Vaccaro, Molinari, Derevyaniuk, Campbell, Drozd, Telesmanic, Meehan.

All ayes. So ordered.

ATTEST:

Supriya Sanyal
Secretary