

MINUTES

PLANNING BOARD

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

June 19, 2019

The Regular Meeting of the Planning Board was called to order at 7:30 PM by Michael Einbinder in the Public Meeting Room.

Mr. Einbinder confirmed that the meeting was being held in conformance with all the regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Einbinder, Mr. Mangold, Ms. Poage, Ms. Greenwald, and Mr. Cunningham. Mr. Robertson, Board Attorney, Mr. Jacobs, Board Engineer, and Mr. Hughes, Township Planner, were also present.

Mr. Niceforo arrived at approximately 8:45 p.m.

Adoption of Minutes:

May 15, 2019

A motion was made by Mr. Einbinder, seconded by Ms. Greenwald, to adopt the Minutes of the Regular Meeting of May 15, 2019 as presented. The voice vote was unanimous.

Adoption of Resolutions:

Resolution authorizing the Planning Board to undertake a preliminary investigation, utilizing Phillips Preiss Grygiel Leheny Hughes LLC, of the property identified as Block 702, Lot 18, in order to recommend to the Township Council whether this property, or any portion thereof, is an area in need of redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5.

A motion was made by Mr. Einbinder, seconded by Mr. Mangold, to adopt the above Resolution. The roll call vote was 5 – 0 with Mr. Einbinder, Mr. Mangold, Ms. Poage, Ms. Greenwald, and Mr. Cunningham voting in favor. There were none opposed.

Resolution memorializing the action taken by the Planning Board on May 15, 2019, recommending the designation of the area consisting of Block 614, Lot 3, as identified on the Official Tax Map of the Township of Berkeley Heights, as an area in need of non-condemnation redevelopment as defined by the New Jersey Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. The determination by the Planning Board was based on the findings of the preliminary investigation prepared and presented by Phillips Preiss Grygiel Leheny Hughes LLC.

A motion was made by Mr. Einbinder, seconded by Ms. Poage, to adopt the above Resolution. The roll call vote was 4 – 0 with Mr. Einbinder, Ms. Poage, Ms. Greenwald, and Mr. Cunningham voting in favor. There were none opposed.

Application for Review:

**App.#SP-2-19: Elite Properties at Berkeley Heights, LLC,
663 & 665 Springfield Avenue and 88 River Road, Block 502, Lots 1, 2, 4 and 5
(HB-3 Zone) / Berkeley Crossing Redevelopment Area**

The applicant is requesting preliminary and final site plan approval for two apartment buildings which are proposed to be constructed on the former Berkeley Florist site. “Building One” would be a three-story, mixed use building with 4,300 square feet of retail space and 37 residential units. “Building Two” would be a two-story residential building with 8 units. Of the 45 residential units, 9 would be affordable COAH units.

Stephen Hehl, attorney for the applicant, stated that the site had been declared an area in need of redevelopment, a Redevelopment Plan was implemented and the proposed project is the culmination of all those efforts. The proposal is a mixed use project consistent with the Redevelopment Plan that was adopted by the Township. The application is for a 45-unit mixed use residential development with a commercial component.

Mr. Checchio, in-house Counsel and principal, Elite Properties, was sworn and explained that his company builds for their own portfolio and to sell. The proposed project will be kept in their own portfolio and managed. They built a similar project in Fanwood.

Mr. Checchio stated there would be ground floor retail and ground floor parking. He noted that the heated enclosed parking garage is a desirable amenity sought after by residents. There would be two buildings, the larger building would have 37 units and the smaller 8 units for a total of 45 units including an affordable component.

In response to questions from the Board about the connection between the Mondelli site and the Elite Properties project, Mr. Checchio stated there is an agreement with the town to build apartments at the Mondelli site. The two affordable units from the Mondelli project have been transferred to the Elite Properties development which will have a total of 9 affordable units.

A question was raised about whether the soil had been tested; Mr. Checchio confirmed that it is contaminated. The final step in the cleanup process will be the construction of the building which will serve as a cap for most of it. Where there is exposed soil on the site, they'll have to create a cap. Their LSRP will inspect the site every 2 years and all DEP requirements will be followed. Mr. Checchio stated that the contaminants were primarily chemicals associated with the florist operations.

Discussion took place about the size of the proposed COAH units and the impact on the school system from additional school-age children in town. Mr. Checchio stated that the negotiation with the township was to minimize impact on the school system and therefore included mainly one and two-bedroom units.

Mr. W. Leland Titus, Site Engineer for the project, was sworn, gave his professional and educational background, and was accepted as an expert witness.

Mr. Titus presented Exhibit A-1 -- General Site Plan -- and discussed the existing conditions at the site and the proposed layout of the project, including location of the parking spaces and vehicular access to the property. He presented Exhibit A-2 - proposed drainage plan for the property - and explained the existing drainage situation as well as the drainage and stormwater management plan for the proposed development. Mr. Titus presented Exhibit A-3 - Lighting and Landscaping Plan. Mr. Titus stated that the proposed streetlights will be revised to conform to the Township's streetscape recommendations.

In response to questions from the Board, Mr. Titus explained the comments made by the Board Engineer in the engineering review letter and his response to some of those concerns. He also described how the applicant will address drainage concerns of the owner of Lot 6.

With respect to a question about possibly relocating the fire hydrant(s), Mr. Titus stated that the applicant will work with the Fire Department and the Township Engineer on that issue.

Mr. Hughes brought up the comments from the Downtown Beautification Committee memo about adding some green buffer between the sidewalk and the curb; specifically the architectural renderings show planting beds with street trees which are not shown on the plans. Mr. Titus stated that that issue would be addressed by the Landscape Architect.

Mr. Jacobs, Neglia Engineering, asked whether the entire site would be brought up to DEP residential standards. Mr. Checchio brought out Exhibit A-1 -- site plan -- and stated that the center parcel is where their LSRP found some contamination to the soil which will be capped in place by the completed site plan. He did not want to say it will be cleaned up to residential standards; it will be suitable for the intended use. That section will be capped in place and there will be a Deed Notice. Their LSRP will continually monitor it according to DEP rules and regulations.

Mr. Robertson asked about the review letters from the various Township Officials. Mr. Titus confirmed they will work with Neglia Engineering to resolve the issues in their comment letter. With regard to the memo from the Sewer Department, they need to go before the DEP for a Treatment Works Approval and will work with Mr. McAndrew, head of the Berkeley Heights Sewer Department. Mr. Titus also stated that he met with Mr. Hopkins, Berkeley Heights Fire Department, about their concerns, and they will make adjustments per Mr. Hopkins' request.

Mr. Einbinder asked if anyone in the audience had any questions.

Candace Ahlquist, resident of 123 Passaic Avenue (Block 502, Lot 3), asked about whether Washington Street would be opened up. Mr. Titus stated it would be improved to the back of the proposed building; there would be a section that is not opened up.

Mary Anne DeFronzo, resident of 677 Springfield Avenue, introduced herself as the owner of Lot 6 and asked about the proposed swale. Mr. Titus gave an explanation. Ms. DeFronzo expressed her concern about drainage onto her property and the higher elevation of the Elite property.

Mr. Hughes asked about the change in access to the commercial retail component which was originally planned off of Passaic Avenue but was changed to access coming off Washington Street. Mr. Titus explained the rationale for the change.

Mr. Corey Chase, Traffic Engineer, Dynamic Traffic, was sworn, gave his professional and educational background, and was accepted as an expert witness.

Mr. Chase stated that he prepared a traffic impact study dated January 29, 2019 and discussed the findings of his report. From a traffic generation standpoint there would be no significant traffic impacts as a result of this development. They especially looked at peak hour traffic counts when traffic is higher in making their assessment.

The meeting was opened to the public. There was no one from the public who had questions or comments.

Mr. John Saracco, architect, was sworn, gave his professional and educational background and was accepted as an expert witness. Mr. Saracco presented Exhibits A-4 and A-5, the Architectural Renderings and Floor Plans which were blown up in size.

Mr. Saracco described the project in detail, including the layout of the two buildings, the proposed outdoor spaces/terraces, the parking areas, the number of units in each building, the location of the HVAC compressors, the retail plaza, the parking garage, and the two-story lobby.

Mr. Saracco stated that a typical unit would have a washer/dryer, its own self-controlled heating and air conditioning system and hot water heater. He reviewed the locations of various amenities, such as the gym and fitness area and the large activity or party room as well as the differences between the two buildings. Mr. Saracco also described the materials to be used on all elevations of the buildings.

Discussion took place about the reason for not utilizing solar energy at the project, the location of the air conditioning compressors and possible noise issues, the ventilation and hood space for a possible future restaurant retail tenant, the size of the elevator in the larger building, fire truck access, the best location for moving trucks to park when tenants are moving in, the ventilation in the garage, and the Elite project in Fanwood, N.J., which was completed about 5 years ago.

Open to Public

The hearing was opened to the public for questions regarding Mr. Saracco's testimony.

Ms. Ahlquist, (Lot 3, Passaic Avenue) asked whether there would be any negative effects on her property such as noise from air conditioning compressors or smells from the garbage room or a restaurant tenant. Mr. Saracco stated there should be no issues given the sufficient amount of distance between her house and the project. The garbage room is located on Washington Street.

Mr. Hughes commended the developers for their hard work over a period of several years on the architectural plans for the project. Mr. Hughes asked for explanations about plans for signage at the site.

Mr. Saracco described the arch on the Springfield Avenue side of the building and said that boards will be built into the storefront to receive the retail tenants' signage. He presented Exhibits A-6 – cut sheet on the gooseneck light fixtures – and A-7 – dimensions of the sign above the storefront.

Discussion took place about the need for directional signage in the form of small ground signs. In response to questions from the Board, Mr. Checchio explained that when a tenant comes for a fit-out for the retail, they will submit the sign at the time the tenant comes in. They will commit to conform to the town signage ordinance. The sign application will be submitted by the tenant.

Mr. Einbinder asked if the applicant would agree to come back to the Planning Board so they can take a look at the future signage. Mr. Checchio stated that they are not asking for any variances for signage today. Ms. Greenwald commented that the Berkeley Heights Zoning Officer can approve a sign if it meets the Zoning Ordinance; if it doesn't, they would be required to return to the Board for approval.

In response to questions from the Board about samples of the materials to be used, Mr. Checchio agreed to come back to the Planning Board at a date closer to the time of construction for a 15-minute informal presentation – not a public hearing -- of the sample materials.

Mr. Marc Nissim, landscape architect, was sworn, gave his professional and educational background and was accepted as an expert witness.

Mr. Nissim presented Exhibit A-8 which describes the landscaping for the two terraces. The exhibit contains the plan for the rooftop garden terrace above the parking deck and the proposed walkway that links the smaller building so the residents there can access the roof deck and amenities in the main building. Mr. Nissim described the terrace layout, the proposed pergola for shade and seating opportunities in the center of the space as well as the large lawn area. Mr. Nissim explained how the main terrace would be separated from the private terraces of the two units and described the amenities to be included in the main terrace area.

Mr. Hughes stated that the pavement area in front of the building is large and he wanted to see planting beds to lessen the amount of paved area.

Mr. Checchio stated they will work with the Township professionals in order to comply with the Township's streetscape design requirements. However, they would like to maintain some degree of flexibility to use modular design in case they attract a restaurant as a tenant. They would like to have push and pull planters to make an outdoor dining area and asked the Board to approve modular design as a solution. Many of the Board Members expressed their agreement with a modular plan.

Open to Public

The hearing was opened to the public for questions regarding Mr. Nissim's testimony.

Ms. DeFronzo (Lot 6) asked if there would be fencing or a landscaping buffer for privacy between her property and Berkeley Crossing. Discussion took place about whether a fence or bushes would be a better solution. Ms. DeFronzo agreed that she would be satisfied with evergreens as a buffer as long as the plantings were tall enough, approximately 5 feet.

The meeting was then opened to the public for general questions or comments.

Ms. Ahlquist was sworn and expressed concern about the land that will be built up that borders her property and inquired about the landscaping and grading plan. Mr. Titus stated that dogwood trees were proposed on the portion of the property closest to Ms. Ahlquist's property. Discussion took place about the landscaping and grading plan.

The meeting was closed to the public.

In response to questions from the Board, Mr. Robertson explained that the conditions in the resolution of approval would require that the applicant work with the Berkeley Heights professionals in order to satisfy the conditions and comments outlined in the memoranda. If an agreement cannot be reached, the applicant would have to return to the Board.

Mr. Jacobs confirmed that their compliance review letter would state whether the applicant was in compliance with the Resolution.

In response to further questions from the Board, Mr. Robertson stated that he can also add a condition to the Resolution that the applicant must provide confirmation from the DEP or the LSRP that all DEP requirements for this particular use have been satisfied.

The Board Members were in agreement that it was an attractive proposal and they considered it a very good application.

The applicant had no objection to Mr. Niceforo voting on the application despite his late arrival to the meeting.

Ms. DiFronzo (lot 6) asked about the widening of River Road due to concerns about having adequate turnaround space in her driveway so she can turn around safely to exit head first. It was agreed that the developer would provide extra gravel for a turnaround on Ms. DiFronzo's property.

Mr. Robertson reviewed the conditions of approval that were discussed at the meeting and would be included in the resolution.

A motion was made by Mr. Einbinder, seconded by Mr. Niceforo, to approve App #SP-2-19: Elite Properties at Berkeley Heights, LLC, 663 & 665 Springfield Avenue and 88 River Road, Block 502, Lots 1, 2, 4 and 5, for preliminary and final site plan approval, subject to the conditions discussed and further subject to the requirements, restrictions and limitations that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting.

The Motion was carried 6 - 0 with Mr. Einbinder, Mr. Niceforo, Mr. Mangold, Ms. Poage, Ms. Greenwald, and Mr. Cunningham voting in favor. There were none opposed.

Request to Extend Preliminary Subdivision Approval:

*App.P&F#1-15: Westminster Presbyterian Church, 725 Mountain Avenue, Bl. 2006, L. 32
Request to extend the preliminary subdivision approval that was granted in 2016.*

Mr. Hehl, attorney for the applicant, was present to represent the applicant, Westminster Presbyterian Church.

Mr. Cunningham recused himself.

Mr. Robertson stated that preliminary subdivision approval was granted in May 2016 which provided for four new residential lots and the existing church building. By statute (under the Municipal Land Use Law) the applicant is entitled to 3 years of protection from any changes in the zoning ordinances. This time period has now run out. The applicant had filed a request for extension of the approval prior to the expiration of the 3-year period; the MLUL permits the Planning Board to grant an extension for up to 2 years: either in two one-year increments or one two-year extension.

Mr. Robertson further explained that this matter was discussed at the May 15 meeting but a question had been raised about whether the applicant would have to comply with Affordable Housing requirements and regulations. The matter was carried to a later date so the Board could research the matter and allow Mr. Robertson to look at the Affordable Housing ordinances that have been passed since 2016. Mr. Robertson reported that Mr. Solfaro's 2016 memo which was referenced in the resolution of approval stated that the applicant shall comply with any applicable COAH requirements (i.e. compliance was a condition of approval.)

Mr. Robertson stated that he researched the matter and concluded that although some amendments were made to the Affordable Housing ordinances in 2017, the only amendment applicable to the Westminster case had to do with the development fee for residential development. With regard to the development fee, Mr. Robertson spoke to Mr. Hehl, and they agreed that in 2016 when this approval was granted, the Township already had a development fee ordinance related to affordable housing units; the fee is 1.5%. That portion of the ordinance hasn't changed, and the applicant is still subject to the affordable housing residential development fee. Mr. Robertson added that this fee requirement will be specifically mentioned in the resolution granting extension.

Discussion took place about granting the extension in one-year increments vs. a two-year increment.

A motion was made by Mr. Einbinder, seconded by Mr. Niceforo, to grant a two-year extension of the preliminary subdivision approval that had been granted in App.P&F#1-15 Westminster Presbyterian Church, 725 Mountain Ave., Bl. 2006, L. 32 in 2016. The motion was carried 5 - 0 with Mr. Einbinder, Mr. Niceforo, Mr. Mangold, Ms. Poage, and Ms. Greenwald voting in favor. There were none opposed.

A motion was made Mr. Einbinder, seconded by Ms. Poage, to adjourn the meeting. The voice vote was unanimous and the meeting adjourned at approximately 10:30 p.m.

Connie Valenti, Secretary