

**ZONING BOARD OF ADJUSTMENT
MINUTES**

FEBRUARY 2, 2009

Meeting was called to order at 7:15 P.M.

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Gonzalez, Mr. Naftali,
Mr. Zaks, Mr. Lankry, Ms. Goralski, Mr. Halberstam
Absent: Mr. Lazzaro
Arrived late: Mr. Lieberman
Also present: Russ Cherkos, Attorney
John Ernst, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

Salute to the flag.

Motion to accept January 5th minutes with a waiver to read – Ms. Goralski

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzales, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Ms. Goralski, Mr. Halberstam

Correspondence

Request from Sal Alfieri to carry, **Appeal # 3692**, 105 Carasaljo to the March 2nd meeting.
Chairman announced that this is their second request to carry.

Motion to carry to March 2nd – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Ms. Goralski, Mr. Halberstam

No further notice. Agreed to waive time.

Request to carry **Appeal # 3691, Somerset**, Pine River Village to the March 2nd meeting.
Chairman announced that this is their second request to carry.

Motion to carry to March 2nd Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Ms. Goralski, Mr. Halberstam.

Letter from Brian Flannery, re: **Aron Ginsberg – Appeal # 3563** requesting to amend an approved resolution.

Mr. Flannery - This application was approved several years ago and a condition of the approval was that the maximum from finished floor to maximum grade was 30 inches. They did soil borings and they cannot put the units any lower into the ground and they are requesting 60 inches based on the existing groundwater conditions.

Mr. Ernst – based on the seasonal high water table it is appropriate to raise it above grade. Instead of 2 ½ feet out of the ground it will be 5 feet out of the ground.

Mr. Flannery - It will be 4 – 5 feet in the ground. There are 5 single family homes.

Motion to amend existing resolution from 30 inches to 60 inches - Mr. Naftali

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzales, Mr. Nafali, Mr. Lankry, Mr. Halberstam
Abstain: Mr. Zaks
Nayes: Mr. Goralski

Motion to approve open litigations for Glen Harrison to continue – Mr. Zaks

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Ms. Goralski, Mr. Halberstam

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Appeal # 3694 – Forest Glen 2, Chestnut Street, Block 1159 Lots 19, 42-4, 85, R-20 zone. Use variance for 72 townhouses in 12 buildings.

Secretary read reports

Elliot Zaks recused himself.

From: John Ernst, Engineer Planner – Second Review - January 27, 2009

The applicant is requesting a Use Variance to allow Townhouses to be constructed on the above referenced property within the R-20 Zone Single Family Residential Zone. The property is located along north side of Chestnut Street approximately 1400 feet west of New Hampshire Avenue. The site currently contains two dwellings, a forested wetland and buffer that bisects the property beyond the homes and a forested wetland and buffer area along the northern most property line. The Variance Map provided by the applicant indicates that a Townhouse development with 72 townhouse units within 12 buildings, a community center and parking for 261 vehicles are proposed.

Townhouse developments can create a transitional use between intense commercial uses and single family residential uses. Since this project is on the border between the commercial and residential zones developing this property with a transitional use could be considered by the Board.

In accordance with the Section 18-902G of the Unified Development Ordinance, Townhouses are not a permitted or conditional Use within the R-20 Zone. Additionally the proposed development exceeds the allowable density for this property. Therefore, the applicant must provide testimony to the Board detailing the special reasons for allowing the Use and Density variances required for this development addressing both the positive and negative criteria for each variance

The applicant should provide testimony indicating why the Townhouse use with the requested density is an appropriate planning and zoning alternate to the permitted single family detached housing.

The applicant should also indicate how the development complies with goals and objectives of the Township Master Plan specifically incorporation of 1) significant vegetative buffers between residential development of differing densities, 2) adequate on-site parking and circulation for multi-family residential property conforming to RSIS, 3) providing sufficient open space and recreational areas and 4) establishment of reasonable density that does not compromise established neighborhoods and quality of life issues.

If the special reasons Variances are approved, the Board should consider applying the requirements of Section 18-1010-Townhouses, of the Unified Development Ordinance to this project.

The architecturals provided by the applicant indicate exterior entrances at the front of each unit to a basement level. The applicant should discuss the intended use of basements since townhouse units can have a basement apartment and can be considered a 2 dwelling unit structure.

The applicant should discuss the buffers to be provided for the project, a Townhouse project adjacent to existing single family homes or areas zoned for single family home shall provide buffers of at least 30 feet in width unless the Board accepts a buffer reduction to 15 feet in width with dense landscaping screening.

The applicant should discuss the environmental constraints on this property and how Stormwater Management will be addressed during the site plan phase of the project.

The applicant should also be prepared to discuss the RSIS requirements for parking, parking lot configurations and turnarounds for the multi-family, Townhouse use.

The applicant should also discuss how the required storage area for each unit for gardening/yard equipment, bicycles and outdoor toys will be provided.

Approval of the application is subject to Preliminary & Final Major Site Plan application for this project.

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Abraham Penzer represented applicant.
Mr. Penzer – asking for use variance only.

Brian Flannery, sworn.
Board accepted credentials.

A-1 rendered version of variance map
A-2 aerial photograph

Mr. Flannery – asking for a use variance to allow townhouses on this property. This site was previously approved for single family housing. There is a stream which bisects the property. Described the area. The applicant tried to market single family homes. The property is unique since that it is broken up into pieces. An association would maintain the large areas of passive open space associated with the stream corridors.

Reviewed Mr. Ernsts report.

Mr. Flannery – the special reasons will be in accordance with the Municipal Land Use Law. The density for 72 townhouses would be 4.56 dwelling units per acre. They would provide 15 feet dense buffering to the east and the west. There is no negative impact on the Master Plan or the Zoning Ordinance. This will provide housing that is needed. There are issues that will be addressed at Site Plan. There is more than 3 acres of passive recreation space. They are showing a tot lot area. Andrews Corner to the east is 18 units per acre. To the west is 2 units per acre. This will provide a good transitional use. They do have the approval from the DEP to cross the wetlands. All stormwater management and all the development will be in accordance with all applicable rules.

Mr. Halberstam asked about paper roads to the east. Visually from Chestnut Street you will only see the 2 front buildings.

Mr. Flannery – Does not know about any plans for development. Directly across the street is the B-5 zone which has a restaurant, a bank, etc. The approval was for 27 single family homes.

Mr. Penzer – this will be 4 bedrooms for \$279,000 and should move. They spent 2 years trying to market this and there was no action. The advertising is done through brokers.

Mr. Gonzalez – should keep this area as single family homes.

Open to Public.

Fred Gincel, 144 Carasaljo Drive, affirmed. Asked how far this project is Caldwell, the paper street?

Mr. Flannery – About 800 feet away.

Gerri Ballwanz, sworn. Asked about the dwelling units per acre. If the potential is there for living basement apartments.

Mr. Flannery – does not require CAFRA approval.

Mrs. Ballwanz – the Master Plan said that this area should remain R-20. If townhouses are going to be approved than this is too dense. Use variance should be carefully considered and preferably should be denied.

Closed to Public.

Ms. Goralski – asked that this be less dense than it is. There is a water problem on the property.

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Mr. Lieberman – the economy calls for what is needed and will be in favor of any property that can be developed.

Mr. Naftali – it would be ideal to have single family lots with big backyards but this is reality. The need now is price.

Mr. Halberstam – this should look not just like a townhouse development. It should be a little upscale.

Mr. Gonzalez – do not think that this is a better use than single family homes.

Mr. Gelley – would be in favor of this application.

Motion to approve - Mr. Lieberman

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Lankry, Mr. Lieberman Ms. Goralski,
Mr. Halberstam

Nayes: Mr. Gonzalez

Appeal #3546AA –Paradise Realty Group, Joe Parker Road, Block 189.03 Lot 184.28, R-20 zone. To construct a community building. Preliminary and final amended site plan approval is sought. Use Variance.

Secretary read reports.

From; John Ernst, Engineer/Planner - January 23, 2009

The applicant is requesting a Use Variance and Site Plan Approval to allow for and construct a Community Center with basement on the above referenced property. The developer has previously received a Use Variance and Site Plan approval for the 26 dwelling unit residential development located along Joe Parker Road and now desires to provide a Community Center on the open space lot at the end of Tamarind Drive.

The Community Center use is not a permitted or conditional use within the R-20 Zone. Therefore the applicant must provide testimony to the Board detailing the special reasons for allowing the Community Center addressing both positive and negative criteria for the variance.

The applicant should provide testimony regarding adequacy of the open space area to remain if the Community Center use is allowed.

The applicant should also provide testimony as to the compatibility of the Community Center’s architectural appearance to the residential units within the development.

Based upon the Site Plan provided it appears that the bulk requirements for the location of the Community Center are met. The applicant should provide testimony to verify that bulk variances are not required.

The applicant should provide testimony indicating how parking for the Community Center will be addressed.

The applicant should provide testimony indicating how the increase in Stormwater runoff from the Community Center will be addressed.

The following comments should be considered:

1. Additional light fixtures should be installed along the roadway to the Community Center.
2. Additional foundation plantings similar to those provided across the front of each of the residential units should be provided in front of the Community Center.
3. The Homeowners Association should be amended to address the Community Center.
4. The final plat filed with the County Clerk's office as Map No. J3634 along with the blanket easement should be amended to address the Community Center.

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The applicant should provide Ocean County Planning Board re-approval for this application.

The applicant remains responsible to obtain all other Local, State and Federal approvals and permits that may pertain to this project.

Abraham Penzer represented applicant.

Mr. Penzer – received approval for 26 dwelling units. The people that live there want the community center for their use.

Brian Flannery, sworn.

Mr. Flannery –a community center is not a permitted use in the R-20 zone and therefore a use variance is required. This area was for passive recreation. It will be for the benefit of the residents. It will have no adverse impact on the neighbors. There are no negative impacts. The applicant is putting this in at his expense to satisfy the need of the residents. They will provide a drywell for the roof drains and it will be to the satisfaction of the Zoning Board engineer.

Mr. Halberstam asked for more parking.

Mr. Gelley - this building is for the residents who will be walking there.

Mr. Penzer – the sanctuary is less than 800 square feet which does not require parking.

Mr. Flannery – the cul-de-sac is built.

Open to Public.

Gerri Ballwanz, sworn. Who is the owners? Who is the developer?

Mr. Penzer – Stratford Holders, owner – Developer, Paradise Realty Group

Ms. Ballwanz - Asked about a tax sale certificate?

Mr. Cherkos – this does not effect the application.

Closed to Public.

Motion to approve with the ability for the applicant to finish the basement with or without a mikvah and no additional parking – Mr. Zaks
Second – Mr. Lankry
Roll call affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Mr. Lankry, Ms. Goralski,
Mr. Halberstam

Recess.

Appeal # 3681A - Alter Rubin, 310-324 Dewey Avenue, Block 247 Lots 12-16, R-7.5 zone.
Site Plan.

Mr. Penzer, attorney for applicant.

Ray Carpenter, engineer, sworn.

Mr. Zaks recused himself.

Chairman announced that there was only 5 members to vote and they would need 4 affirmative votes.

Mr. Penzer asked to carry the application to the March 2nd meeting. Agreed to waive time.

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Motion to carry to the March 2nd meeting with no further notice – Mr. Gonzalez,
Second – Mr. Gelley,
Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Ms. Goralski, Mr. Halberstam
Abstain: Mr. Zaks

Resolutions

Appeal #3609AAA – Somerset Vine, Vine Street & Pine Street. Block 778.02, 779, 780, 781,
Lots 21, 1 & 2, 1 & 2, 1, A-1 and R-10 zone. Resolution to approve amended site plan to
subdivide approved 14 lots into 28 lots.

Motion to approve – Mr. Zaks
Second – Mr. Gelley
Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Appeal # 3638A - Diversified Capital, Inc., 1072 Madison Avenue, Block 64 Lot 6, R-OP zone.
Resolution to approve site plan.
Motion to approve – Mr. Gelley
Second – Mr. Gonzalez
Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Ms. Goralski,
Mr. Halberstam

Appeal # 3664A – Somerset, Block 208.01 Lots 10.01, 10.02, 11 & 72, East County Line
Road/Somerset Avenue. Resolution to approve site plan

Motion to approve – Mr. Gelley
Second – Mr. Naftali
Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Ms. Goralski,
Mr. Halberstam

Resolution memorializing the appointment of certain professionals, approving meeting schedule for the calendar year for 2009 and appointed the official newspaper.

Motion to approve – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Zaks, Ms. Goralski,
Mr. Halberstam

Motion to pay bills - Mr. Gelley

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 10:00 P.M.

Respectfully submitted,

Fran Siegel, Secretary