

MARCH 18, 2009, MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on March 18, 2009, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. with Chairman Scott Meyer presiding. After a Salute to the Flag the Chairman read the "Open Public Meetings Act".

BOARD MEMBERS PRESENT: Michael Shadiack, Larry Sweeney, Linda Lutz, Andre Verge, James Rilee, Richard Zoschak, Robert DeFillippo and Chairman Scott Meyer

ABSENT: Charlie Bautz

LATE: Joseph Schwab – 7:40 p.m.

PROFESSIONAL STAFF PRESENT: Tom Germinario, Esq., Paul Ferriero, P.E., Russell Stern, P.P.

Also present, Eugenia Wiss, Board Secretary.

MINUTES:

A motion to approve the minutes of March 4, 2009, with a minor correction was made by Mr. Rilee, seconded by Mr. Sweeney.

Roll Call: Mr. Shadiack, yes; Mr. Sweeney, yes; Mr. Zoschak, abs, Mr. Schwab, abs., Mrs. Lutz, yes; Mr. Verge, yes; Mr. Rilee, yes; Mr. DeFillippo, yes; Mr. Meyer, yes

NEW APPLICATIONS:

PBA-09-002 Wong Ki Chung Block 3103, Lot 5 103 South Hillside Avenue
Minor Subdivision and Variance Application

Attorney Larry Kron represented the applicant. The lot they want to subdivide contains 43,401 sf. and the zone requires 25,000 sf per lot. The lot has public water and sewer. Mr. Kron felt this lot is easily identified because it is a gap between houses like a missing tooth. You can see the rear of the house behind it on Larson Drive. They can comply with 11 out of 14 ordinances. They cannot comply with lot width, 110', they have 109.58' and that is diminimus. They cannot comply with the lot area; one lot will be 20,825 sf and the other, 20,823 sf. The lot width at the setback is 109' and 125' is required.

Planner Eric Snyder was sworn in and qualified. Mr. Schwab arrived at 7:40. This is a minor subdivision of large property as the key map illustrates and a C-2 variance application. This lot stands out because it's a freestanding empty lot. Exhibit A-1 is an aerial photo of the neighborhood, a low density, single-family neighborhood. It shows what has already been approved and you can't tell that lots are undersized or what the widths are. The key map gives a different picture than the actual neighborhood. The

Board needs to decide if these variances are significant based on what exists and if there would be negative effects to the neighborhood and Roxbury if this was approved.

The benefits of approval would be the improvement to the drainage. The visual impact of another home will solidify the rhythm of the street. It fills in an empty socket. The Master Plan talks about infill and this plan is consistent with Roxbury's and the State's objectives. This is a reasonable application that could be approved subject to the engineer's satisfaction. He did not feel there were any negatives and the proposal is consistent with the neighborhood.

One set of architectural plans for the proposed home were submitted and marked Exhibit A-2. They are not fixed on this particular plan and would accept the Board's input. Mr. Zoschak noted the front garage and was concerned because the other homes have side-loaded garages. Mr. Chung was sworn in, he owns the other house. The proposed house is 3800 sf. and he will work with the Board and Planner to design it in conformance with the neighborhood.

Mr. Rilee clarified that infill development it is not being promoted by the Master Plan. Mr. Stern confirmed this is not a goal. Mr. Rilee doesn't recall granting relief for substandard lot creation unless the neighborhood was of similar character. Mr. Snyder said it will fit in with the neighborhood but admitted there is no hardship.

The lots adjoining it and across the street are oversized. The undersized lots are off Larson. Mr. Meyers was not in favor of creating undersized lots, 20,000 or 18,000 sf , where do you draw the line? Mr. Snyder felt neighborhoods are flexible.

Mr. Rilee felt if the rest of the properties were at the minimum size, they would have a better argument. The lots around this one are larger than the lots he wants to create. Lots 6, 7, 8, 9 and 10 comply but are not oversized. Across the street Lot 1 and 14 are oversized. Mr. Snyder said there is nothing sacred about 125' in the creation of a neighborhood and these are minor variances.

Ms. Lutz said there is a consistency in the zoning and not a myopic viewpoint of one property and the Master Plan for this neighborhood is undermined. Mr. Stern noted that all lots except one have conforming lot width. He questioned the outstanding permits. Mr. Chung has lived in the house for 4 years and the house is 60 years old. He has permits for renovation of half of the house and foundation work. The permits are open; they have been working on the house since July, 2007. He wants to build a house for his family on this other lot.

The 21,780 sf includes the right of way, not including the right of way the lot would be 20,823 sf. The home being proposed is oversized for the lot and can't accommodate a side-loaded garage. They are prepared to modify the size of the house.

Mr. Zoschak felt the missing “tooth” doesn’t bother him on Hillside Avenue. This lot is not in the preservation area, it is in planning area. Any approvals would be conditioned on waivers from the State.

Mr. Luis Lopez was sworn in. he lives at 102 South Hillside Ave. directly across the street from Mr. Chung. He doesn’t like the empty lot with an old shed, looking at the back of a house, it’s an eyesore and he has been there 14 years. A new home will improve the value of his home and improve the neighborhood. His property is a similar-size property. His house is 3200 sf. Mr. Zoschak said his house would not fit on this lot based on the aerial photo submitted. One lot with a house in the center would also be acceptable. Mr. Kron said that it not what his client wants to do.

Mr. Stern’s report of March 12, 2009 was reviewed. The variances were addressed and testimony presented on the positive and negative criteria, They agreed to Item 9 regarding road widening, curbs and sidewalks. The drawing is lacking detail on the proposed sidewalk, curbing, road widening but they would conform to whatever is required by the Township. This should be done prior to filing deeds. Existing trees will be preserved so a design waiver for some street trees was recommended. They agreed to Item 15 regarding tree caliper and height. The applicant agreed to remove the deteriorated shed. They agreed to all other items in his report.

Mr. Kron said they will agree with all the comments of Mr. Ferriero’s report of March 11, 2009. Mr. Ferriero commented on the lot width and side-loaded garage, the dwelling needs to be adjusted in size. The drywells have a discrepancy with notes from Morris County and they may not get any advantage to drainage.

Mr. Stern gave his analysis; the numbers are out of character for the general neighborhood and area. There is a mix of lot areas but they tend to be larger than what is being proposed. The benefit in granting C-2 variances are the efficiency and the desirable visual environment by “filling in the missing tooth”. The building size being proposed is oversized because they need the extra lot width. Application approval could be a detriment to the area.

The applicant could come back with a smaller sized house. Mr. Rilee said the design waivers and the lot width are minimal but the character to the neighborhood is important and it does not fit in. Even if it is smaller house, it won’t fit into the neighborhood and this is important to the Master Plan. This lot is 20% smaller to the zone and more than that compared to the larger oversized lots. This would significantly change the character of the neighborhood.

Mr. Kron said the Board of Adjustment would hear a C-2 variance and demonstrate that the benefits outweigh the detriments. They noticed all the neighbors and no one came to the meeting except one who was in favor. The applicant has a shed that is unattractive thus creating an unsightly condition. The smaller lot size is imperceptible. The back of the house is 300’ away and is also unsightly. A new house would be more attractive.

Mr. Kron said the Board has the discretion to grant the relief. Mr. Rilee felt it is small for the zone and other lot sizes in the neighborhood and is not convinced of the benefit to the neighborhood. Mrs. Lutz said because neighbors aren't here doesn't it doesn't mean that no one is against the application and the Board needs to act on behalf of the public. They will submit architectural and renotice if Board wants.

They can continue and come back with architectural more in character will the neighborhood. The Board was polled and was split as to whether the applicant should come back with a smaller home or if the lot size defines the character. The applicant should not jump through hoops if the lot size is the issue. Mr. Kron was willing to take that chance and would like a complete record and was willing to renotice but the Board did not think this was necessary.

The matter will be continued to the May 6, 2009 meeting with no further notice. The plans will be for a side-loaded garage and the applicant would be locked into a design if approved.

The meeting was open to the public. James Chung, Mr. Chung's son of 13 Eyeland Place, was sworn in. He said that empty lot is an eyesore and it is a gap. They can make the house smaller. No one else from the public commented. The meeting was closed to the public.

The matter was continued to May 6th with no further notice. The architectural marked Exhibit A-2 were returned to applicant.

OLD BUSINESS:

PBA-08-019 Prudent Publishing Co. Block 9501, Lot 2, 400 Frontage Rd.

As part of their final site plan approval Mr. Stern said they were supposed to locate the brick from the side area to behind the building but they have to remove a tree and they would be over an irrigation system in that area. They would like to locate the brick on three parking spaces in the rear of the building and it would be screened with temporary fencing. There are no variances required. This is a minor change that the Board felt Mr. Stern could handle internally.

The tennis courts at **The Meadows at Roxbury on Righter Road, Block 6201, Lot 3.002**, an older condominium project, have settled and it is in their best interest to eliminate the tennis courts. The courts have been chained off for two years. The Homeowners Association would like to use this area as open field area. They are replacing active recreation with active recreation. Either the Zoning Officer could sign off on this or they would have to go to the Zoning Board for approval of a Minor Site Plan Amendment. Mr. Rilee said he doesn't mind granting the relief but they need to put a sign up indicating it was a park. They will submit a plan that shows it as an active recreation field. The Homeowner's Association maintains the property.

All Board members were in favor of approval.

The April 1st meeting is cancelled.

The meeting was adjourned by motion at 9:00 p.m.

Eugenia Wiss, Board Secretary