

Tuesday, February 21, 2023

**BRIELLE PLANNING BOARD
TUESDAY, FEBRUARY 21st, 2023**

The Regular Meeting of the Brielle Planning Board was held on Tuesday, February 21, 2023 at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Charlie Tice, Amber Fernicola

Absent – James Stenson

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 6 people in the audience.

APPOINTMENT TO BOARD: Stephanie Frith, Class 4 Member, through 12/31/26 (absent at January meeting)

CORRESPONDENCE: Copy of Notice to NJDEP for 1114 Shore Drive to legalize existing dock structures and receipt of the November/December issue of the NJ Planner.

A motion was made to approve the Minutes of January 10, 2023 this done by Chris Siano, seconded by Councilman Garruzzo, all ayes, no nays.

OTHER BUSINESS: Letter from Daniel Burke requesting extension of time for filing his Minor Subdivision deed for 409 Union Lane.

Ms. Trainor announced that due to a conflict with the first item on the Other Business Agenda, the item would be taken out of turn. Councilman Garruzzo announced he would be recusing himself from this item due to a conflict. Mr. Clark stated he had received a phone call and a letter from Mr. Timothy Middleton's office that said due to a medical emergency he would not be able to appear this evening and asked that because of this emergency that this matter be carried to the next meeting. Mr. Middleton is representing Peter Donnelly who is an objector on this matter and who has filed a law suit relating to the timing of the subdivision which is pending in court. Mr. Clark stated he had spoken to Mr. Burke's attorney who had consented to the request but did ask that an announcement be made stating the meeting would be carried and that there would be no need to renotice. Mr. Clark stated that the matter would be carried to Tuesday, March 14th, 2023.

OLD BUSINESS: Consideration of approval of a Resolution to create a Minor Subdivision for Block 43.01, Lot 3, 626 Cedarcrest Drive, owned by 626 Cedarcrest Drive, LLC, to create 3 buildable lots.

**RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD,
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE
APPLICATION OF 626 CEDARCREST DRIVE, LLC SEEKING MINOR SUBDIVISION**

APPROVAL FOR PROPERTY LOCATED AT 626 CEDARCREST DRIVE WHICH IS IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 43.01, LOT 3

WHEREAS, 626 Cedarcrest Drive, LLC (the “Applicant”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking minor subdivision approval for the property located at 626 Cedarcrest Drive in Brielle which is identified on the Borough tax map as Block 43.01, Lot 3 (the “Property”); and

WHEREAS, the Applicant is the owner of the Property; and

WHEREAS, the Property is located within the Borough’s R-4 Residential Zone (the “R-4 Zone”); and

WHEREAS, the Property is a 20,779 square foot lot which currently contains a one-story frame dwelling with a detached garage and other ancillary structures; and

WHEREAS, the Applicant is proposing to demolish all of the structures on the Property and to subdivide the Property into three (3) oversized lots that comply with the size requirements of the R-4 Zone; and

WHEREAS, the existing and proposed use and lots are conforming to the zone; and

WHEREAS, the Applicant submitted the following documents in support of its application:

- (a) Plat of Minor Subdivision prepared by prepared by Insite Engineering dated last revised May 31, 2022;
- (b) Boundary and Topographic Survey prepared by Justin J. Hedges, PLS dated April 25, 2022;
- (c) Application package which includes a Zoning Permit denial letter from the Zoning Officer dated June 27, 2022; and

WHEREAS, the Board was also provided with a letter dated November 22, 2022, prepared by the Board's Engineer and Planner Alan Hilla of H2M Associates, Inc. providing a technical review of the application; and

WHEREAS, the Planning Board held a hearing on this application on January 10, 2023; and

WHEREAS, the Board considered the following testimony presented at the hearings in connection with this application:

Attorney Keith Henderson, Henderson & Henderson, Manasquan, NJ, stated he was representing the applicant. Mr. Henderson stated that the applicant was before the board seeking a minor subdivision. Mr. Pat Ward, InSite Engineering, Wall Township, NJ was called to testify. Mr. Ward was sworn in by Mr. Clark. Mr. Ward stated he was a Professional Engineer and would be testifying as such, and stated that he had testified before this Board and others before. Mr. Ward was accepted by the Board as an expert in engineering.

Mr. Henderson began by asking Mr. Ward if he prepared the required subdivision plat for this application and if he had seen Mr. Hilla's review letter to which he replied he had. Mr. Ward described to the Board which items in Mr. Hilla's letter the applicant had agreed to comply with. Mr. Henderson stated that Mr. Hilla's letter was only two pages long so there was no need for a lot of comment and said they were now prepared to answer any questions or hear any suggestions from the Board in regard to the application.

Ms. Trainor asked Mr. Hilla if he had any clarifying points to add to which Mr. Hilla replied that he did not. Ms. Trainor then announced it was time to hear questions from the Board. Ms. Brisben referred to Mr. Hilla's letter, item 1 stating that the Subdivision Plat was not signed. Ms. Brisben added that when the applicant submits revised plans, she would need 5 sets that are signed and sealed. Mayor Nicol, Councilman Garruzzo, Mr. Stenson, Ms. Trainor, Mr. Siano, Mr. Jones, Mr. Tice, and Ms. Fernicola did not have any questions.

Ms. Trainor announced it was time to hear questions from the Public for Mr. Ward. Hearing none, Ms. Trainor asked Mr. Henderson if he had anything else to add. Mr. Henderson stated he did not and he respectfully asked the Board to take a vote and approve the application.

Ms. Trainor announced it was time to hear comments from the public with respect to the application. Hearing none, Ms. Trainor announced it was time to hear comments from the Board. Councilman Garruzzo, Mr. Stenson, Mr. Jones, stated they did not have any issues with the application. Mayor Nicol, Ms. Trainor, Chris Siano, Ms. Brisben, Mr. Tice, Ms. Fernicola stated they had no comments to make.

Mr. Clark then listed for the Board the stipulations that the applicant had agreed to with respect to Mr. Hilla's letter.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed. James Stenson made a motion, seconded by Karen Brisben, and followed by a roll call vote.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified;
- b. The Applicant is the owner of the Property;
- c. The Property is located within the Borough's R-4 Zone;
- d. The Property is a 20,779 square foot lot which currently contains a one-story frame dwelling with a detached garage and other ancillary structures;
- e. The Applicant is proposing to demolish all of the structures on the Property and to subdivide the Property into three (3) oversized lots that comply with the size requirements of the R-4 Zone;
- f. The existing and proposed use and lots are conforming to the zone;
- g. The proposed subdivision will result in 3 buildable lots which meet the development criteria for buildable residential lots located within the R-4 Zone;
- h. The Applicant has represented to the Board that the fences shown on the Minor Subdivision Plat are not on the Property and that the Applicant has no ownership rights over the fences;
- i. The Board has determined that the proposed minor subdivision will result in the creation of three lots that conform in all respects to the requirements of the R-4 Zone, and that it is therefore appropriate to grant the Applicant's application subject to the conditions set forth herein.

WHEREAS, James Stenson moved to approve the application with the conditions as described herein; this motion was seconded by Karen Brisben. At that time the application was approved by the following roll call vote:

Tuesday, February 21, 2023

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones, Charlie Tice, Amber Fernicola

Noes: None

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's application is hereby approved and granted subject to the following conditions:

- a. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- b. The Applicant shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application;
- c. The lot numbers to be assigned to the lots created through this subdivision may change and are subject to the final approval of the Borough Tax Assessor;
- d. The Applicant shall amend the Minor Subdivision Plat to (i) show all existing utility mains and services, (ii) to correct the North Arrow in order to indicate the proper reference orientation, (iii) to amend the lot numbers (in the event that the Tax Assessor assigns different lot numbers than those used by the Applicant), and (iv) to include the preparer's name and license number;
- e. Within forty-five (45) days of the date of the adoption of this resolution, the Applicant shall submit five (5) sets of the signed and sealed revised Minor Subdivision Plat to the Board Secretary;
- f. Prior to the Borough's signing of the Minor Subdivision Plat, the Applicant shall demolish all structures on the Property and provide proof thereof to the Borough and shall also comply with all of the other conditions of approval listed herein;
- g. The Applicant shall use commercially reasonable efforts to preserve the trees and vegetation on the Property;
- h. The Applicant shall record and file a subdivision plat conforming to the requirements of the Municipal Land Use Law within the time period required under N.J.S.A. 40:55D-54, unless such time period is extended as authorized under N.J.S.A. 40:55D-52; and
- i. All representations made under oath by the Applicant or its agents shall be deemed conditions of this approval, and any misrepresentations or actions by

Tuesday, February 21, 2023

the Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above Resolution was made by Councilman Frank Garruzzo, seconded by Karen Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones, Charlie Tice, Amber Fernicola

Noes: None

Not eligible to vote: Stephanie Frith

The Planning Board then went into Executive Session at 7:10pm. and adjourned at 7:50pm. The reason the Board went into an executive session was to discuss issues requiring attorney-client advice and potential future litigation. The topics discussed were Affordable Housing for the Borough of Brielle and the Housing Element & Fair Share Plan Report for the Borough of Brielle, produced by H2M Architects and Engineers.

Ms. Trainor thanked the audience for sticking around and explained the Planning Board had gone into Closed Session for some legal advice about the last item on the agenda, "Discussion on Affordable Housing for Brielle Borough." Ms. Trainor said the Board had received a report entitled, "Housing Element & Fair Share Plan Report, Borough of Brielle, Monmouth County, NJ" from H2M Architects and Engineers. H2M was retained by the Planning Board to provide an analysis spurred by recent developments that have occurred in neighboring towns and as a result and with the advice of Council, the Board is proactively reviewing the issue as it applies to Brielle.

Ms. Trainor than welcomed from H2M, Sanyogita Chavon. Ms. Chavon stated she was a Professional Planner in the state of New Jersey and has appeared before numerous municipalities in New Jersey. Ms. Chavon described what the Housing Element & Fair Share Plan and gave a brief overview of Affordable Housing in New Jersey, the Master Plan and the Housing Fair Share Plan. Ms. Chavon also discussed the Borough's Affordable Housing obligation, the vacant land analysis as per the Jacobson Decision and identified different sites around Brielle that were realistic for inclusionary development.

Ms. Trainor asked Mr. Clark if he had any questions for Ms. Chavon. Mr. Clark replied he did not and then the Board was asked if they had questions for Ms. Chavon. Ms. Brisben referred to the Affordable Housing Strategies portion of the handout given to the Board and stated that the area where the Shop Rite used to be and the bend around there was marked as "Mixed-Use Overlay" and asked if that meant it would be possible to add apartments there. Mr. Clark answered that the overlay zone would allow someone who proposed to redevelop or build something new could potentially be permitted to build commercial below and affordable housing above in that area. There were no other questions from the Board members.

Tuesday, February 21, 2023

Ms. Trainor announced that it was time to hear questions for Ms. Chavon from the public. Mr. Dan Burke, 1013 Cedar Lane, was sworn in by Mr. Clark. Mr. Burke asked if understood correctly that the Borough's obligation was 14 units. Ms. Chavon replied that the total obligation is 354 units. Ms. Chavon stated that the issue is that the Borough does not have any vacant land so there is a mechanism by which they calculate which sites have the potential to be used. Ms. Chavon stated 340 of those units have unmet needs leaving 14 units. Mr. Burke asked if the realistic developmental potential is 14 units based on their assessment even though the potential obligation is way higher but cannot be met. Ms. Chavon replied that this was correct. Mr. Burke asked if this would result in an amendment to the Borough's Master Plan and a Zoning Ordinance to which Ms. Chavon answered yes. There were no other questions from the public.

Ms. Trainor announced 45 minutes has passed and stated that this item would be carried to the next meeting on Tuesday, March 14, 2023. Ms. Trainor stated the question portion was closed and the Board would take Board and public comments at the next meeting.

At this time Ms. Trainor asked if any member of the public wanted to address the Board on any other business not on the agenda and there was no response. As there was no other business to come before the Board, a motion to adjourn was made and seconded with unanimous vote, all aye. The meeting was adjourned at 8:10 p.m.

Denise Murphy, Recording Secretary

Approved: March 14, 2023