

PLANNING BOARD
BOROUGH OF BERNARDSVILLE
Minutes – May 11, 2023
VIRTUAL ONLINE MEETING

1. **O.P.M.A. Statement:** A statement of adequate meeting notice and adherence to the state mandated emergency remote meetings protocols, as set forth on this meeting's web-posted agenda, was read by Chair, Robert Graham, at 7:37 pm.

2. **Roll Call:**

Present – Members Canose, Graham, Kellogg, McQueen and Simoff.

Absent – Members Gardner, Horowitz, Macmillan and Otteau.

Board Professionals Present: Attorney Alexander Fisher (for Steven Warner), Planner John Szabo, Jr. and Engineer Robert Brightly.

3. **Minutes:**

A. Review draft minutes of 4/13/23 meeting.

Previously listed for review on the 4/27/23 agenda, these minutes were held and carried to tonight's meeting based on questions Ms. Gardner had and wanted to first discuss with Mr. Mottola. Having done so, Mr. Mottola advised the Board that Ms. Gardner's resulting comments and/or corrections as discussed had been incorporated in the minutes now before the Board. Mr. Mottola also relayed several edits to these minutes that Mr. Warner had requested in a phone conversation they had. Upon further review by the Board, a motion to approve the minutes as amended and corrected was made by Chair Graham and seconded by Mayor Canose.

Voice vote:

All eligible members voted in the affirmative. Ms. Kellogg abstained.

B. Review draft minutes of 4/27/23 meeting.

Upon review a motion to approve the minutes as presented was made by Mayor Canose and seconded by Mr. McQueen.

Voice vote:

All eligible members voted in the affirmative. Ms. Kellogg abstained.

4. **Communications:** 5/9/23 A. Suriano email transmittal of introduced Ordinance #2023-1966: Extending Permitted Sidewalk Sale Hours (re 8A).

5. **Business of Visitors not related to the agenda:** None.

6. **Old Business:** None.

7. **New Business:** Application #SP-238A – EQUINET PROPERTIES, LLC – AMENDED PRELIMINARY & FINAL RESIDENTIAL SITE PLAN w/ Variances & Design Waivers; 55 Claremont Rd., B:71, L:6, Quimby Lane Redevelopment Zone – Subarea 6; Originally heard 6/16/22; Amended app. rec'd. 3/16/23, Deemed substantially complete 4/13/23 pending requests for waivers; Scheduled to be heard 5/11/23.

Appearing on behalf of the applicant were attorney Roy Kurnos, Equinet Properties principal Richard Reimers, engineer Mark Gimigliano and architect David Minno.

Regarding requests for waivers and determination of completeness, Mr. Szabo identified the waiver requested for providing checklist item 9-9.2.aa. The applicant has provided site plan topographic contours at 2' intervals instead of the required 1' intervals, because using the latter would make the drawing illegible due to the steepness of much of the site. Mr. Brightly concurred with Mr. Szabo that using 1' intervals would not improve the readability of the plan and added that most of the proposed work would be occurring outside of the riparian buffer.

A motion to waive the requirement for checklist item #9-9.2.aa in lieu of providing 2' contour intervals was made by Mr. McQueen and seconded by Mayor Canose.

Roll call vote:

All members voted in the affirmative.

Mr. Fisher affirmed that he had reviewed the applicant's proofs of notice and found them to be satisfactory, thereby giving the Board jurisdiction to hear the application.

Mr. Kurnos introduced the amended preliminary and final site plan application stating that the applicant is proposing to build eight townhouse units on the subject site which is located in the Quimby Lane Redevelopment Zone (the Zone).

Together with the Board's professionals, Mr. Reimers, Mr. Gimigliano and Mr. Minno were sworn by Mr. Fisher.

Exhibits introduced:

- A1** – 5/11/23 Existing Conditions Exhibit by Dykstra Walker Design Group
- A2** – 5/11/23 Aerial Site Plan Exhibit by Dykstra Walker Design Group
- A3** – 5/11/23 Site Plan Exhibit by Dykstra Walker Design Group
- A4** – 5/11/23 Materials Book by Minno-Wasko Architects

Mr. Gimigliano proceeded to explain the applicant's development proposal. The applicable zoning requirements for this site are those set forth for Subarea 6 of the Quimby Lane Redevelopment Plan (QLRDP). Utilizing exhibits **A1** through **A3** he described the site and its environs stating that there is a flood plane, a flood way and a riparian buffer on site but no fresh water wetlands. The applicant has applied to the New Jersey Department of Environmental Protection (DEP) for flood hazard area verification and has verified the limits of the riparian zone, location of the floodway and elevation of the flood plane on the property. The DEP application was deemed complete in March and the applicant expects to receive permits within about a month. There is a steeply sloped area along the front of the property, which is man-made, likely part of the construction of Claremont Road and the property, part of which is supported by a retaining wall. Regrowth trees are on that slope with additional trees growing along the Mine Brook. Water, sewer, gas and electrical utilities provide services to the site from the right of way. Exhibit **A2** sites the proposed eight 2-bedroom townhouse units as fronting onto Claremont Rd. and having driveway access from Mill Street at approximately the same location as currently exists. A 19-space parking garage will be positioned beneath the dwellings. Two stories of the building will be visible when viewed from Claremont Rd. and three stories will be seen on the back side.

Enclosed stairs and an elevator will provide access to the front of the building and sidewalk from the garage. An access easement parallel to the brook at the rear of the property will be dedicated to the Borough. In it, a 3' wide wood chip covered walking path with a pair of benches will be provided for use by residents and the public. It will be approximately 10' above the stream. With a 10% north to south downslope, it will not be ADA compliant but will not have any stairs along its length. Some trees will be planted in the area around the benches. It is anticipated that this walkway will become part of continuous brook-side walking paths envisioned for the zone. An exposed foundation and retaining wall will run along the south and west side of the building and along the west side of the driveway. It will be at grade at Mill St. and increase in height to about 12' at the south end of the building. The wall will have protection for vehicles and a fence along its entire length to separate the residences from pedestrians on the path. Mr. Gimigliano said that it will be up to the Borough if it wants to have a protective railing or fence along the brook side of the walking path. He said that the applicant would not have a problem widening the path to 4' as per Mr. Brightly's report comment. Mr. Kurnos clarified that the applicant would retain ownership of the land over which the easement is to be provided.

Displaying Sheet 3 of the previously submitted site plan drawings, Mr. Gimigliano explained the parking garage layout and adjacent access driveway. The 19-space garage complies with the RSIS for the number and size of the dwellings proposed. 14 of the parking spaces will be beneath the building, including one accessible and three EV equipped spaces. An enclosed fire stair and elevator will be located at the north end of the garage, which will provide access to the street level and townhomes above. One of the changes made from the applicant's prior submittal is the addition of a trash and recycling area at the north end of the parking garage next to the stair and elevator. It will be sized large enough for each unit owner to have a garbage can and a recycling container. All trash and recycling materials would be brought down to this area by the tenants. The Homeowners Association would then hire a private waste hauler to collect the trash and recyclables. The waste hauler will utilize a small garbage collection truck about the size of a pickup truck, with a dump on it. The driveway has been designed with a bump out so that the service vehicle can drive in, back up, and pull out after collecting refuse. The frequency of pickups would be scheduled as needed. No refuse containers would need to be left street side. Mr. Gimigliano said that the applicant considered the Board's prior suggestion of having exit stairs from the south end of the garage but decided against it due to the application already proposing a deficient side yard setback of 7' where 10' is required. The applicant is satisfied in its provision of a single exit on the north side. There will be no direct access from the garage into the dwellings. All access into the units will be from the front of the property. Some trees will be removed in the steep sloped area of the site but the trees along the brook will remain. Replacement trees are proposed along the streets with foundation plantings along the building. The applicant proposes to work with the Board planner and engineer in developing additional landscaping to screen the exposed foundation walls. Two infiltration areas at the rear of the building with piped overflow discharges into the brook are proposed for collecting stormwater runoff from the roof, the driveway and the exposed parking area. Once excavated and installed, these infiltration area will be backfilled and returned to the same slopes that currently exists. Spreading out the infiltration area over two locations was determined to be preferable to concentrating it all in one area. DEP approval is required for the infiltration system. Water, gas, sewer and electric utilities will be brought into the building from the street. All meters are proposed to be inside the building but if required to be outside, they would be located on the north exterior wall of the building and

screened with landscaping. Because the two front property lines run to the centers of the streets, the applicant anticipates dedicating all portions of the lot within the right of way to the county and town as applicable. Area calculations for the application were made based on the post-dedication lot area of 18,509 S.F. In addition to the aforementioned side yard setback variance required at the south end of the building, additional variances are required for proposed lot coverage of 7,065 S.F. where 1,375 S.F. is permitted; proposed impervious coverage of 9,400 S.F. where 2,475 S.F. is permitted; proposed steep slope disturbance in the 15% to 25% range of 1,787 S.F. where 1,000 S.F. is allowed; and proposed steep slope disturbance in the >30% range of 2,799 S.F. where 250 S.F. is allowed. These slopes are chiefly manmade from the time the adjacent streets were built. To prevent slope erosion during construction, "super silt fences", consisting of chain link fencing with applied filter fabric, will be installed at the bottom of the property along the brook. Many of the slopes will be eliminated with the construction of the building and when construction is finished, all the slopes will be revegetated and no storm water will be directed over the remaining slopes. According to Mr. Gimigliano, there will be no adverse impacts from disturbance of the steep slopes. Due to the site's existing topography, he opined that there is no reasonable way to develop the property without disturbing steep slopes. A design waiver is required for not having an on-site loading area. It is anticipated that deliveries and move-ins/move-outs will be from the parking spaces along Claremont Rd. A variance for having a driveway entrance from other than Quimby Lane is required (per Subarea 6 zoning). Whereas the property has no frontage on Quimby Lane, the entrance will be from Mill St. at the same location as the current driveway. Mr. Gimigliano said the applicant will work with Mr. Brightly regarding his report letter comment #B8.a~d. on the placement of a guard rail between the driveway and the modular block wall. He said they would use concrete instead of modular block and raise its height by 2' to 2.5', the same height as the guard rail, and mount a decorative metal fence on top of the wall as a protective pedestrian barrier. Of the three proposed EV equipped parking spaces, two can be moved to the uncovered parking area, but the ADA accessible space must remain in the covered portion of the garage near the elevator.

Mr. Szabo confirmed for the Chair that a front yard setback variance on Mill St. is not required as there is a 0' setback requirement. Per Mr. Simoff's request, sheet 8 of the submitted site plans was displayed to show where the steep sloped areas of the site are located. Responding to Ms. Kellogg, Mr. Gimigliano identified the extent of the riparian zone and what is proposed to be built within it. Discussing the DEP permits needed for disturbances to the floodway and flood plain, he stated that no construction is proposed within the floodway and that only small portions of the building will be built within the flood plain. To do so the DEP has a zero net fill requirement that necessitates creating additional flood storage areas that are equal to the amount of added fill. Within the 50' wide riparian zone, no construction is proposed within the first 25' from the top of the bank of the Mine Brook. And within the remaining 25', areas that are disturbed for construction and later revegetated are not counted as being disturbed. Mr. Gimigliano said this project will be below the DEP allowed limits of disturbance. Except for one tree along the bank of the brook to install a pipe, the only trees that will be removed from the site will be along Claremont Rd. to facilitate construction of the townhomes. Replacement shade trees will be planted along the two fronting streets and along the walkway near the benches. Mr. Brightly asked that the applicant maintain a 4' clear sidewalk width from the tree grates and utilize a "Silva-Cell" system to impede tree roots from lifting the sidewalks. Columnar red maples and English oaks that won't interfere with the building in 20 years are proposed. Mr. Gimigliano

stipulated that the applicant is agreeable to working with the Board's professionals in developing a landscape plan and list of plant species. Mr. Simoff pointed out that depending how much of an easement is requested by the county along Claremont Rd., the front steps into the dwelling units could end up within the easement. Per his request the applicant will provide a turning template diagram for the garage and driveway. Addressing Mr. Brightly's concern, Mr. Gimigliano said they could extend the proposed fence from the end of the stream abutment further south along the pathway to better secure the area. He indicated that the pathway will not have side to side sloping and pointed out where the benches are shown on sheet 3 of the site plans. Responding to Ms. Kellogg, he said that he was the person that analyzed the area and determined that no wetlands exist on the property. He said that he has been flagging, delineating and analyzing wetlands since wetland rules were promulgated. Based on his training, knowledge and experience, he serves as his firm's designated wetlands expert and is testifying with certainty that no wetlands exist on the property. However, if it is something that the Board requires, Mr. Gimigliano stipulated that the applicant would be agreeable to obtaining a presence/absence letter from the DEP. As suggested by Mr. Brightly, they will be doing soil testing to determine the presence of ground water.

Mr. Szabo commented that according to the QLRDP, the walkway is required to be 12' in design and ADA accessible, with permeable pavers as the recommended surface. While it is possible to create the envisioned Quimby Park in piecemeal fashion by separate developers, all must be cognizant of the overall plan for connecting paths. The plan also requires 12' wide sidewalks on Claremont Rd. and Mill St. and the applicant is proposing 7' widths. Mr. Szabo sees a disconnect between this subarea of the redevelopment zone and the rest of it due to the presence of extensive steep slopes. Mr. Reimers said it was their interpretation of the QLRDP that 12' wide sidewalks were intended for Quimby Lane and not Claremont Rd. or Mill Street. 12' sidewalks are not typical in other areas of town. Mr. Szabo said that is a determination the Board would have to make relative to granting variance relief as the requirement comes from the general section of the QLRDP that applies to the entirety of the Zone. It is his belief that that width was chosen to allow for pedestrian movement, lighting, landscaping and street furniture. Each site plan that comes in will have to be reviewed on its own merits as engineering constraints will be different for each site and certain parts of the QLRDP are broadly written.

Mr. Gimigliano's responses to members of the public:

(Aaron Duff, 51 Crescent Dr.): The car wash is located at the southern end of the property and the proposed walkway would terminate there. There is space between the building and the southern property line, but it is very steep as far as connecting the path to Claremont Rd.

(Kathy Peachey, 70 Chilton St.): They would increase sidewalk widths on Claremont Rd. and Mill St. to 8' if possible. They did not receive any comments from the Fire Prevention Bureau. One of the reasons for not adding an exit stair at the south end of the building was the additional side yard encroachment.

(Kathy Redling, 211 Claremont Rd.): It is the applicant's intent to have private haulers collect recyclables. They will comply with the Borough's recycling ordinance and provide the required annual tonnage reports. Snow storage would be along the edge of the sidewalks between the tree grates.

Mr. Minno displayed and explained his architectural building plans and elevations that had been submitted with the application, as well as exhibit A4 which had not. Starting with the garage level he noted that unlike typical developments of this nature, the parking will be invisible to the public except for five spaces that will be visible from Mill St. There will be a concrete 3-hour fire separation between the open garage level and the residences above. There are not any building or fire code regulations that require having an exit from the south end of the garage in addition to the one provided at the north end. A 12' x 15' screened-in area is provided for trash and recycling containers, with room to expand if additional bins are needed. Per the upper two floor plans, there will be eight identical 2-bedroom, 2-bath town homes above the garage level of approximately 1,800 to 2,000 S.F. each. The elevation drawings indicate the use of mixed exterior finish materials including brick veneer, cementitious siding, divided-lite windows with gray shake shingle and standing seam metal roofing. The shed dormers shown on the roofs are only decorative. There may be air handlers in the attic but the mechanical system has not been designed yet. At the rear, open decks are provided for each dwelling. Decorative features have been applied to the exposed foundation walls along the rear and south sides of the building to provide some relief. Using exhibit A4, Mr. Minno displayed and explained the proposed exterior finish materials and colors. While the jogs in the building are not shown on the engineering drawings exactly as they are on the architectural plans, all are within the building outline depicted on the engineer's drawings and no setbacks are affected. Due to the cost impact and increased difficulty of construction, the applicant does not wish to increase the amount of brick veneer on the building's exterior as suggested by the HPAC. They would be willing to change the curved dormers to shed dormers as suggested by the HPAC if the Board wanted such modifications.

Chair Graham noted that Mayor Canose needed to leave the meeting at 10:00 pm. Upon consideration of the Board's upcoming schedule and concurrence by the applicant, Mr. Fisher announced that the hearing will be continued at the Planning Board's 5/25/23 meeting.

8. Board Reviews/Public Hearings/Pending Applications: The Board acknowledged the following matters and their current status:

A. D26 Master Plan Consistency Review Intro'd Ord. #2023-1966 re: Extending Permitted Sidewalk Sale Hours; Introduced 5/8/23; Introduced 5/8/23; Public hearing 6/12/23; Planning Board D26 review scheduled for 5/25/23.

B. Application #SP-246 – FEST, LLC. – Addition & Renovation to Existing Mixed Use Bldg.; 12 Mine Brook Road, B: 99, L: 2, Zone: D-C; Received 2/6/23; Pending completeness review.

C. Application #SP-247 – AR at BERNARDSVILLE, LLC – PRELIMINARY MAJOR SITE PLAN w/Variances & Design Waivers; 39 Olcott Sq. + 5 Morristown Rd.; B:125, L: 1-3, Zone: D-C; Received 3/21/23; Pending completeness review.

9. Business of Visitors – second opportunity: None.

10. Executive Session: None.

11. Adjournment: Chair Graham adjourned the meeting at 10:05 pm.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Frank Mottola', with a large, stylized initial 'F' and a horizontal line extending to the right.

Frank Mottola, Planning & Zoning Boards
Administrative Officer & Recording Secretary

Keywords: Equinet-Quimby-redevelopment-55-Claremont-Kurnos-Reimers-Gimigliano-Minno.